

BOARD OF SUPERVISORS

MINUTES

November 25, 2003

Supervisors in Attendance:

Mr. Arthur S. Warren, Chairman
Mr. J. L. McHale, III, Vice Chrm.
Mr. Edward B. Barber
Mrs. Renny B. Humphrey
Mr. Kelly E. Miller

Mr. Lane B. Ramsey
County Administrator

School Board Members in Attendance:

Ms. Elizabeth Davis, Chairman
Ms. Dianne Pettitt

Staff in Attendance:

Colonel Carl R. Baker,
Police Department
Ms. Patsy Brown, Asst.
Dir., Accounting
Mr. Craig Bryant, Dir.,
Utilities
Dr. Billy Cannaday, Jr.,
Supt., School Board
Ms. Marilyn Cole, Asst.
County Administrator
Ms. Rebecca Dickson,
Budget Director
Mr. James Dunn, Dir.,
Economic Development
Ms. Lisa Elko, CMC
Clerk
Chief Stephen A. Elswick,
Fire Department
Mr. Michael Golden, Dir.,
Parks and Recreation
Mr. Bradford S. Hammer,
Deputy Co. Admin.,
Human Services
Mr. John W. Harmon,
Right-of-Way Manager
Mr. Russell Harris, Mgr.
of Community Development
Services
Mr. Thomas E. Jacobson,
Dir., Planning
Mr. H. Edward James,
Dir., Purchasing
Mr. Donald Kappel, Dir.,
Public Affairs
Mr. Rob Key, Asst. Dir.,
Internal Audit
Ms. Kathryn Kitchen, Asst.
Supt. of Schools for
Business and Finance
Mr. Louis Lassiter, Dir.,
Internal Audit
Mr. R. John McCracken,
Dir., Transportation
Mr. Richard M. McElfish,
Dir., Env. Engineering
Mr. Steven L. Micas,
County Attorney
Capt. Frank Spence,
Sheriff's Office
Mr. James J. L. Stegmaier,
Deputy Co. Admin.,
Management Services

Mr. M. D. Stith, Jr.,
Deputy Co. Admin.,
Community Development
Mr. Thomas Taylor, Dir.,
Block Grant Office
Mr. Rick Witt, Asst.
Building Official

Mr. Warren called the regularly scheduled meeting to order at 4:10 p.m.

1. APPROVAL OF MINUTES FOR NOVEMBER 12, 2003

On motion of Mr. McHale, seconded by Mr. Warren, the Board approved the minutes of November 12, 2003, as submitted.

Ayes: Warren, McHale, Barber, Humphrey and Miller.

Nays: None.

2. COUNTY ADMINISTRATOR'S COMMENTS

O KPMG, LLP PRESENTATION

Mr. Ramsey introduced Ms. Elizabeth Foster, engagement partner from KPMG, LLP.

Ms. Foster stated the audit is officially complete and all opinions issued were unqualified. She further stated no exceptions were reported in the required communications letter. She stated two upcoming standards were outlined in the management letter - post employment benefits will be required to be reported as a liability on financial statements in 2007; and auditing standards will require the county to look at its related organizations to determine whether any of them should be considered component units effective 2004.

Mr. McHale commended Accounting Department staff for their efforts which led to a successful audit.

3. BOARD COMMITTEE REPORTS

There were no Board committee reports at this time.

4. REQUESTS TO POSTPONE ACTION, ADDITIONS, OR CHANGES IN THE ORDER OF PRESENTATION

On motion of Mr. Barber, seconded by Mr. McHale, the Board moved Item 8.A., Consideration of a Comprehensive Agreement Between the Chesterfield County School Board and First Choice Public-Private Partners: Chesterfield, LLC, to be considered prior to Item 7., Deferred Items; added Item 8.C.1.c., Resolution Recognizing Ms. Susan M. Whiteman, Department of Public Affairs, Upon Her Retirement; replaced Item 8.C.10.b., Set Date for Public Hearing to Consider Approval of a "No Wake" Zone for a Portion of the Appomattox River; added Item 8.C.10.c., Set Date for Public Hearing to Consider a Proposed Charter Amendment Regarding Suspension for the Elderly of

Payment of Assessments Due for Sewer and Water Assessment Districts; and adopted the Agenda, as amended.

Ayes: Warren, McHale, Barber, Humphrey and Miller.

Nays: None.

5. RESOLUTIONS AND SPECIAL RECOGNITIONS

There were no resolutions or special recognitions at this time.

6. WORK SESSIONS

There were no work sessions at this time.

8.A. CONSIDERATION OF A COMPREHENSIVE AGREEMENT BETWEEN THE CHESTERFIELD COUNTY SCHOOL BOARD AND FIRST CHOICE PUBLIC-PRIVATE PARTNERS: CHESTERFIELD, LLC

Mr. Ramsey recognized Ms. Elizabeth Davis, Chairman of the School Board, Ms. Dianne Pettitt, Clover Hill School Board representative, and Dr. Cannaday to address the issue.

Ms. Davis expressed concerns relative to the Planning Commission's decision to deny substantial accord for the Genito Road high school site and the conversion of Clover Hill High School to a middle school. She requested that the Board approve the comprehensive agreement between the School Board and First Choice Public-Private Partners: Chesterfield LLC, and indicated that if the Board is not in a position to approve all three projects, the School Board is requesting that the Board approve the comprehensive agreement as it relates to the Cosby Road site. She stated the cost of the Cosby Road school will not exceed \$50 million plus the cost of land and off-site improvements.

Ms. Pettitt expressed concerns that Clover Hill High School has been overcrowded for many years. She stated the comprehensive agreement is timely, fiscally sound, educationally responsible and will save taxpayers money. She further stated the Cosby Road site will help to address growth, but will not provide relief to the Clover Hill High School community, and urged the Board to approve the comprehensive agreement in its entirety.

When asked, Ms. Pettitt stated converting Clover Hill High School to a middle school is necessary to address middle school overcrowding.

Dr. Cannaday stated that, in February 1996, the School Board commissioned a document regarding program and design requirements for high schools, which specifically speaks to facility and program standards that have guided the work at Meadowbrook, Thomas Dale, Matoaca and the two new proposed high schools. He further stated this document has served the School Board well in creating and maintaining equity across all schools. He reviewed costs associated with school construction options for both the First Choice proposal as well as two alternate proposals to deal with increasing student enrollment. He stated the First Choice proposal

addresses building two high schools and renovating Clover Hill High School by replacing the heating and air conditioning ventilation system (HVAC) only, and the alternate proposals address building a high school and a middle school and renovating Clover Hill High School. He further stated Clover Hill High School currently does not meet the other high school standards in the areas of labs, gymnasium, auditorium and other site amenities, indicating that these comparisons led both of the independent architectural firms to submit alternate proposals with costs that would bring Clover Hill into compliance with other high schools. He noted it would also be necessary to acquire additional land in order to renovate Clover Hill High School to current standards. He expressed concerns relative to OSHA safety requirements that would not allow students to be in unsafe areas while construction is taking place, stating that under the First Choice proposal, the Clover Hill High School renovation to a middle school would be complete by 2007 and under the alternate proposals, Clover Hill High School renovations would not be complete until 2009.

Discussion ensued relative to the difference in renovation costs for a high school and a middle school.

When asked, Dr. Cannaday stated the cost of converting Clover Hill High School to a middle school and making it compliant with other middle schools would not be more than \$8 million today.

Mr. Barber stated the contract provides that the renovation of Clover Hill High School into a middle school still remains to be defined and would require renegotiation of the fixed contract price. He expressed concerns that the contract does not provide for a limit on spending for the renovation.

Mr. Patrick Lacy, School Board attorney stated this option would allow the School Board to use First Choice to convert Clover Hill High School to a middle school, as well as provide for the use of the conventional bidding process to receive a lower price. He further stated \$8 million is an estimate for the Capital Improvement Program.

Mr. Barber expressed concerns relative to placing middle school students in a high school that is not comparable with other high schools without some type of improvements.

Discussion ensued relative to ownership of architectural plans for county schools.

Mr. Miller expressed concerns that the School Board did not solicit alternate proposals before approving the Comprehensive Agreement with First Choice.

Mr. Warren stated he feels the First Choice proposal addresses the overcrowding issues.

Discussion ensued relative to the cost of other school renovation projects.

Dr. Cannaday stated the School Board has been firm and consistent with controlled costs when converting high schools into middle schools. He further stated the escalated costs of renovating Thomas Dale and Meadowbrook High Schools were

attributed to labor costs associated with students being present during the renovations.

When asked, Dr. Cannaday stated he is very comfortable with the accuracy of the costs outlined in the First Choice proposal.

Mr. Warren expressed concerns that rejection of the comprehensive agreement could delay addressing the overcrowding issue by two years and could cost as much as an additional \$30 million.

Mr. McHale stated the Board is not constrained to the two sites proposed for two new high schools, indicating there may be more appropriate sites that would be more in accordance with the Planning Commission's substantial accord recommendations. He further stated the costs associated with alternative sites or proposals could change substantially. He expressed concerns that the proposal's total is nearly as large as the last bond referendum, and indicated he feels the Board has a fiduciary responsibility not to make a rushed decision.

Discussion ensued relative to the Planning Commission's concerns that led to denial of substantial accord for the Genito Road site.

Mr. Barber stated he understands there are major problems with providing on-site retention on the Genito Road site, and without on-site retention, all the runoff flows directly to the reservoir.

Discussion ensued relative to community meetings and public hearings held by the School Board relative to the issue.

Mr. Warren stated he has received approximately 80 e-mails in the past two days from residents supporting the First Choice proposal in its entirety.

Discussion ensued relative to conformance of the proposed school sites with the Public Facilities Plan.

Ms. Beverly Rogers stated the Planning Commission determined that the Cosby Road site is in conformance with the current Public Facilities Plan, and neither the Genito Road site nor the conversion of Clover Hill High School into a middle school were in conformance with the current plan. She further stated staff found all three proposals to be in conformance with the Public Facilities Plan.

Mr. Micas stated that the Board had four options - 1) approve the comprehensive agreement with only the Cosby Road component; 2) approve the comprehensive agreement with all three projects; 3) reject the comprehensive agreement in its entirety; or 4) defer the matter.

Mr. Ramsey stated the Board could approve the Cosby Road site and still preserve the other two projects as the substantial accord appeals are reviewed.

Mr. Miller stated he feels the appeals on the substantial accord determinations should be considered prior to the Board acting on the comprehensive agreement and funding issue.

Mr. McHale suggested that the Board set a special meeting date next week to hear the appeals.

Mr. McHale then made a motion to defer consideration of the comprehensive agreement between the Chesterfield County School Board and First Choice Public-Private Partners: Chesterfield, LLC and the related issues associated with the agreement until December 4, 2003 at 7:00 p.m.

Mr. McHale clarified that his motion would also include hearing the appeals to the Planning Commission's substantial accord determinations for the Genito Road site and the conversion of Clover Hill High School into a middle school.

Mr. Warren seconded Mr. McHale's motion.

Mr. Bob Mills stated he has requested a 45-day extension to adequately appeal the Planning Commission's ruling regarding the Genito Road site, indicating that he has addressed every issue raised by staff and the additional time is necessary to analyze why the Planning Commission rejected the site. He requested that the Board not postpone approval of the Cosby Road site.

Mr. Warren stated he feels Mr. Mills' request is reasonable.

Dr. Cannaday stressed the importance of the Board moving ahead on the Cosby Road site so that relief for overcrowding will be available by 2006.

Mr. Barber expressed concerns relative to allowing the appellant additional time for the appeal process after not allowing the Planning Commission the additional time requested to review the requests for substantial accord determination. He stated he is prepared to move forward with the Cosby Road site at this time and to move quickly on the substantial accord appeals.

Mr. Warren withdrew his second to Mr. McHale's motion.

Mr. McHale stated he understands Mr. Mills' desire to have additional time and would be willing to wait another week, but is not prepared to vote in favor of the Cosby Road site at this time.

Mr. McHale did not withdraw his motion.

Discussion ensued relative to hearing public comment regarding the issue.

Mr. Barber stated he feels strongly that the Board should not delay its decision on the Cosby Road site.

Mr. Barber then made a substitute motion for the Board to approve the comprehensive agreement for the Cosby Road component only, and defer the remaining issues as well as consideration of the appeals until December 4, 2003.

When asked, Mr. Micas stated the substitute motion will set a time to hear the appeals, and the Board will be asked later in the meeting to accept the substantial accord reports from the Planning Commission.

Mr. Miller expressed concerns relative to justification for the estimated funding for the Cosby Road project.

Ms. Kitchen came forward and stated the renegotiated price with First Choice for the Cosby Road site only was \$49,360,905. She further stated staff has estimated the cost of the Cosby Road site will not exceed \$50 million plus land and off-site improvements required by the Planning Commission, or a total of \$56,823,592.

Mr. Warren stated he, too, has concerns relative to funding of the Cosby Road project, and he will not support the substitute motion.

Due to lack of a second, Mr. Barber's substitute motion failed.

Mr. Micas restated Mr. McHale's original motion for the Board to defer consideration of the comprehensive agreement between the Chesterfield County School Board and First Choice Public-Private Partners: Chesterfield, LLC and the related issues associated with the agreement until December 4, 2003 at 7:00 p.m. and to consider any appeals to the Planning Commission's substantial accord determinations for the Genito Road site and the conversion of Clover Hill High School into a middle school at this time.

Mr. Warren seconded Mr. McHale's motion.

Discussion ensued relative to allowing the applicant an additional week before hearing the appeal.

Mr. Miller made a substitute motion, seconded by Mr. Warren, for the Board to defer consideration of the comprehensive agreement between the Chesterfield County School Board and First Choice Public-Private Partners: Chesterfield, LLC and the related issues associated with the agreement until December 11, 2003 at 7:00 p.m. and to consider any appeals to the Planning Commission's substantial accord determinations for the Genito Road site and the conversion of Clover Hill High School into a middle school at this time.

Ayes: Warren, McHale, Barber, Humphrey and Miller.

Nays: None.

Mr. Barber and Mr. Miller excused themselves from the meeting.

7. DEFERRED ITEMS

7.A. TO CONSIDER ADOPTION OF A RESOLUTION WHICH AUTHORIZES THE COUNTY ADMINISTRATOR TO SUBMIT AN APPLICATION TO THE VIRGINIA PUBLIC SCHOOL AUTHORITY (VPSA), DECLARES THE OFFICIAL INTENT OF THE COUNTY TO REIMBURSE ITSELF FROM BOND PROCEEDS, AND AUTHORIZES THE ISSUANCE AND SALE OF GENERAL OBLIGATION SCHOOL BONDS TO THE VIRGINIA PUBLIC SCHOOL AUTHORITY

Mr. Ramsey stated staff recommends that the Board defer this issue until December 11, 2003.

On motion of Mrs. Humphrey, seconded by Mr. Warren, the Board deferred consideration of a resolution authorizing the County Administrator to submit an application to the Virginia Public School Authority (VPSA), declaring the official intent of the county to reimburse itself from bond proceeds, and authorizing the issuance and sale of general obligation school bonds to the Virginia Public School Authority until December 11, 2003.

Ayes: Warren, McHale and Humphrey.

Nays: None.

Absent: Barber and Miller.

7.B. TO CONSIDER REVISIONS TO THE FY2004 SCHOOL CAPITAL IMPROVEMENT FUND APPROPRIATIONS

Mr. Ramsey stated staff recommends that the Board defer this issue until December 11, 2003.

On motion of Mr. McHale, seconded by Mrs. Humphrey, the Board deferred consideration of revisions to the FY2004 School Capital Improvement Fund appropriations until December 11, 2003.

Ayes: Warren, McHale and Humphrey.

Nays: None.

Absent: Barber and Miller.

Mr. Miller and Mr. Barber returned to the meeting.

7.C. BOARD ACTION REGARDING A ZONING ORDINANCE AMENDMENT TO CHANGE CERTAIN SPECIAL EXCEPTIONS TO CONDITIONAL USES

Mr. Jacobson stated the Board held a public hearing on November 12, 2003 to consider a Zoning Ordinance amendment to change certain Special Exceptions to Conditional Uses. He further stated the Board requested additional information regarding the definitions of "lot" and "zoning lot." He stated the County Attorney has provided this information to the Board, recommending that the definitions in the Zoning Ordinance not be changed.

On motion of Mr. Miller, seconded by Mr. Warren, the Board adopted the following ordinance amendment:

AN ORDINANCE TO AMEND THE CODE OF THE COUNTY OF CHESTERFIELD, 1997, AS AMENDED, BY AMENDING AND RE-ENACTING SECTIONS 19-65, 19-66, 19-67, 19-68 AND 19-124 AND ADDING SECTIONS 19-68.1, 19-73.1, 19-78.1, 19-83.1, 19-88.1 AND 19-93.1 RELATING TO SPECIAL EXCEPTIONS AND CONDITIONAL USES IN RESIDENTIAL AND AGRICULTURAL DISTRICTS

BE IT ORDAINED by the Board of Supervisors of Chesterfield County:

(1) That Sections 19-65, 19-66, 19-67, 19-68, and 19-124 of the Code of the County of Chesterfield, 1997, as amended, are amended and re-enacted and Sections 19-68.1, 19-73.1, 19-78.1, 19-83.1, 19-88.1 and 19-93.1 are added to read as follows:

Article III. Districts

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Division 4. R-88 Residential District

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Sec. 19-65. Uses permitted with certain restrictions.

The following uses shall be permitted in the R-88 District subject to compliance with the following conditions and other applicable standards of this chapter. If these restrictions cannot be met, these uses may be allowed by conditional use, subject to section 19-13:

o o o

- (c) Yard sales, as accessory to a principal use, provided that they do not exceed two days in duration.

Sec. 19-66. Accessory uses, buildings and structures.

The following accessory uses, buildings and structures shall be permitted in the R-88 District:

o o o

- (g) Other accessory uses, buildings and structures not otherwise prohibited, customarily accessory and incidental to any permitted use.

Sec. 19-67. Conditional uses.

The following uses may be allowed by conditional use in the R-88 District, subject to the provisions of section 19-13:

o o o

- (o) Provided the owner or operator of the business resides on the premises, a business operated on a lot or parcel inside or outside of a dwelling unit or accessory building, but not to include massage clinics, certified massage therapists or one chair beauty shops.
- (p) Nonprofit legal service facilities.
- (q) Nonprofit civic, social and fraternal clubs and lodges; nothing in this subsection shall be construed to include fraternities or sororities operating in conjunction with any public or private school or college.
- (r) Cemeteries and graveyards.
- (s) Emergency rescue squad and fire station buildings and grounds.
- (t) Government buildings.
- (u) Greenhouses, hothouses and plant nurseries at which their products are sold or offered for sale.
- (v) Subject to the following requirements other uses that are not specifically enumerated in this chapter and that are of the same general character as the specifically enumerated uses allowed in this

district. Before the planning commission and board of supervisors hear an application pursuant to this subsection, the director of planning shall consider, among other things, the following: the size and proposed configuration of the site; the size, height and exterior architectural appearance of any proposed structure or structures; noise; light; glare; odors; dust; outdoor activities; traffic; parking; signage; and hours of operation. Based on these considerations, he shall determine that the proposed use's operating characteristics are substantially similar to, and its impact on neighboring properties no greater than, the operating characteristics and impacts of the specifically enumerated uses allowed in this district.

Sec. 19-68. Special exceptions.

The following uses may be allowed by special exception, subject to the provisions of section 19-21:

- (a) Provided the owner or operator of the business resides on the premises, one chair beauty shops on a lot or parcel inside of a dwelling unit or accessory building.
- (b) Kennel, private.

Sec. 19-68.1. Manufactured Home Permit.

The Board of Supervisors may grant a permit with or without conditions for a temporary manufactured home provided the manufactured home is necessary because the principal residence located on the premises has been rendered uninhabitable by fire or Act of God. Such manufactured home need not meet the required conditions of the district as deemed appropriate by the Board of Supervisors at the time the permit is granted.

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Division 5. R-40 Residential District

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Sec. 19-73.1. Manufactured Home Permit.

The Board of Supervisors may grant a permit with or without conditions for a temporary manufactured home provided the manufactured home is necessary because the principal residence located on the premises has been rendered uninhabitable by fire or Act of God. Such manufactured home need not meet the required conditions of the district as deemed appropriate by the Board of Supervisors at the time the permit is granted.

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Division 6. R-25 Residential District

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Sec. 19-78.1. Manufactured Home Permit.

The Board of Supervisors may grant a permit with or without conditions for a temporary manufactured home provided the manufactured home is necessary because the principal residence located on the premises has been rendered uninhabitable by fire or Act of God. Such manufactured home need not meet the required conditions of the district as

deemed appropriate by the Board of Supervisors at the time the permit is granted.

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Division 7. R-15 Residential District

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Sec. 19-83.1. Manufactured Home Permit.

The Board of Supervisors may grant a permit with or without conditions for a temporary manufactured home provided the manufactured home is necessary because the principal residence located on the premises has been rendered uninhabitable by fire or Act of God. Such manufactured home need not meet the required conditions of the district as deemed appropriate by the Board of Supervisors at the time the permit is granted.

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Division 8. R-12 Residential District

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Sec. 19-88.1 Manufactured Home Permit.

The Board of Supervisors may grant a permit with or without conditions for a temporary manufactured home provided the manufactured home is necessary because the principal residence located on the premises has been rendered uninhabitable by fire or Act of God. Such manufactured home need not meet the required conditions of the district as deemed appropriate by the Board of Supervisors at the time the permit is granted.

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Division 9. R-9 Residential District

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Sec. 19-93.1 Manufactured Home Permit.

The Board of Supervisors may grant a permit with or without conditions for a temporary manufactured home provided the manufactured home is necessary because the principal residence located on the premises has been rendered uninhabitable by fire or Act of God. Such manufactured home need not meet the required conditions of the district as deemed appropriate by the Board of Supervisors at the time the permit is granted.

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Division 15. A Agricultural District

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Sec. 19-124. Uses permitted with certain restrictions.

The following uses shall be permitted in the A District subject to compliance with the following conditions and other applicable standards of this chapter. If the following restrictions cannot be met, these uses may be allowed by conditional use, subject to section 19-13:

o o o

(3) Stock or dairy farms, including all buildings and structures necessary to such use and the keeping, storage or operation of any vehicle or machinery necessary to such use, provided that the lot or parcel has at least three acres.

(2) That this ordinance shall become effective immediately upon adoption provided, however, that the ordinance shall not apply to any application for special exception or conditional use filed prior to the date of adoption.

Ayes: Warren, McHale, Barber, Humphrey and Miller.

Nays: None.

8. NEW BUSINESS

8.B. STREETLIGHT COST APPROVALS

On motion of Mr. Humphrey, seconded by Mr. McHale, the Board approved the following streetlight installations:

Bermuda District

- In the Mount Blanco Subdivision:
Sloan Drive, vicinity of 12100
Cost to install streetlight: \$6,847.00

Dale District

- In the Meadow Creek Subdivision:
Creek Meadow Circle, vicinity of 3013
Cost to install streetlight: \$182.84

Clearview Court, vicinity of 3314
Cost to install streetlight: \$182.84

Matoaca District

- Hickory Road, vicinity of 5100/5104
Cost to install streetlight: \$533.42

Ayes: Warren, McHale, Barber, Humphrey and Miller.

Nays: None.

8.C. CONSENT ITEMS

The following item was removed from the Consent Agenda for Board discussion:

8.C.10.b. TO CONSIDER APPROVAL OF A "NO-WAKE" ZONE FOR A PORTION OF THE APPOMATTOX RIVER

Mrs. Humphrey stated she would prefer to hold the public hearing regarding the "no-wake" zone on January 14, 2004, rather than December 17, 2003.

Mrs. Humphrey then made a motion, seconded by Mr. Warren, for the Board to set the date of January 14, 2004 at 7:00 p.m. for a public hearing to consider approval of a "no-wake" zone for a portion of the Appomattox River.

Ayes: Warren, Barber, Humphrey and Miller.

Nays: McHale.

Mr. McHale stated he did not support Mrs. Humphrey's motion because the proposed "no-wake" zone is in the Bermuda District.

Mrs. Humphrey stated she thought the "no-wake" zone was proposed for the Matoaca District, and inquired whether the Board can still hold the public hearing on December 17, 2003.

After brief discussion, on motion of Mr. McHale, seconded by Mr. Barber, the Board waived Robert's Rules of Order, which prohibits the Board from hearing the same item twice in a meeting.

Ayes: Warren, McHale, Barber, Humphrey and Miller.
Nays: None.

On motion of Mr. McHale, seconded by Mrs. Humphrey, the Board set the date of December 17, 2003 at 7:00 p.m. for a public hearing to consider approval of a "no-wake" zone for a portion of the Appomattox River.

Ayes: Warren, McHale, Barber, Humphrey and Miller.
Nays: None.

8.C.1. ADOPTION OF RESOLUTIONS

8.C.1.a. AUTHORIZING THE EXECUTION OF A CONTINUING DISCLOSURE AGREEMENT IN CONNECTION WITH THE ISSUANCE BY THE VIRGINIA PUBLIC SCHOOL AUTHORITY (VPSA) OF ITS SCHOOL REFUNDING BONDS SERIES 2003B, A PORTION OF THE PROCEEDS OF WHICH REFUNDED CHESTERFIELD COUNTY GENERAL OBLIGATION SCHOOL BONDS SERIES 1994A

On motion of Mrs. Humphrey, seconded by Mr. Warren, the Board adopted the following resolution:

RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY OF A CONTINUING DISCLOSURE AGREEMENT IN CONNECTION WITH THE ISSUANCE BY THE VIRGINIA PUBLIC SCHOOL AUTHORITY OF ITS SCHOOL REFUNDING BONDS (1997 RESOLUTION) SERIES 2003 B, A PORTION OF THE PROCEEDS OF WHICH REFUNDED THE COUNTY OF CHESTERFIELD GENERAL OBLIGATION SCHOOL BONDS, SERIES 1994 A; AND AUTHORIZING ANY OTHER ACTIONS NECESSARY TO ACHIEVE THE OBJECTIVES CONTEMPLATED HEREBY

WHEREAS, the Virginia Public School Authority (the "Authority") pursuant to a resolution duly adopted on June 26, 1991, as amended, restated and supplemented (the "1991 Resolution") issued bonds ("1991 Resolution Bonds") for the purpose of purchasing general obligation school bonds of certain cities and counties within the Commonwealth of Virginia; and

WHEREAS, the Authority has issued under the 1991 Resolution a certain series of 1991 Resolution Bonds designated as "Virginia Public School Authority School Financing Bonds (1991 Resolution) Series 1994 A" (the "Series 1994 A Bonds"); and

WHEREAS, the Authority used a portion of the proceeds of the Series 1994 A Bonds to purchase certain duly authorized

and issued general obligation school bonds of the County of Chesterfield, Virginia (the "County") designated the County of Chesterfield General Obligation School Bonds, Series 1994 A ("Local School Bonds"); and

WHEREAS, the Authority refunded its Series 1994 A Bonds (the "Refunded Bonds") from a portion of the proceeds of its Virginia Public School Authority School Financing and Refunding Bonds (1997 Resolution) Series 2003 B (the "Refunding Bonds") issued pursuant to a resolution duly adopted by the Authority on October 23, 1997 (the "1997 Resolution"); and

WHEREAS, the Authority in refunding the Refunded Bonds has pledged the Local School Bonds for the benefit of the holders of bonds issued under its 1997 Resolution; and

WHEREAS, the Authority is required to assist the underwriters (the "Underwriters") of the Refunding Bonds with their duty to comply with Securities and Exchange Commission ("SEC") Rule 15c2-12 (the "Rule"); and

WHEREAS, the Authority has requested the County to execute a Continuing Disclosure Agreement in order for the Authority to assist the Underwriters in complying with the Rule; and

WHEREAS, the Board of Supervisors of the County of Chesterfield, Virginia considers it to be advisable for the County to fulfill the request of the Authority to execute a Continuing Disclosure Agreement.

NOW, THEREFORE BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE COUNTY OF CHESTERFIELD, VIRGINIA:

1. Continuing Disclosure Agreement.

The Chairman of the Board of Supervisors and such officer or officers as he may designate are hereby authorized to enter into a Continuing Disclosure Agreement in the form attached as Appendix A hereto, containing such covenants as may be necessary in order for compliance with the provisions of the Rule, and any other documents the Authority deems necessary to comply with the SEC rules and any Internal Revenue Service rules and regulations regarding maintaining the tax-exempt status of the bonds.

2. Further Actions.

The members of the Board and all officers, employees and agents of the County are hereby authorized to take such action as they or any one of them may consider necessary or desirable in connection with the execution and delivery of the Continuing Disclosure Agreement and maintaining the tax-exempt status of the bonds, and any such action previously taken is hereby ratified and confirmed.

3. Effective Date.

This resolution shall take effect immediately.

Ayes: Warren, McHale, Barber, Humphrey and Miller.

Nays: None.

8.C.1.b. RECOGNIZING FIREFIGHTER ALLEN BRUCE CLAYTON,

**CHESTERFIELD FIRE AND EMERGENCY MEDICAL SERVICES
DEPARTMENT, UPON HIS RETIREMENT**

On motion of Mrs. Humphrey, seconded by Mr. Warren, the Board adopted the following resolution:

WHEREAS, Firefighter Bruce Clayton will retire from the Fire and Emergency Medical Services Department, Chesterfield County, on December 1, 2003; and

WHEREAS, Firefighter Clayton graduated from Recruit School #4 in 1974 and has faithfully served the county for nearly 30 years in various assignments as a firefighter at the Chester, Manchester, Bon Air, Clover Hill, and Winterpock fire stations; and

WHEREAS, Firefighter Clayton served as a member of the Technical Services Unit; and

WHEREAS, Firefighter Clayton served as a member of the Chesterfield Fire and Emergency Medical Services Scuba Rescue Team; and

WHEREAS, Firefighter Clayton served on the New Fire Station Construction Committee that assisted in the design of the Swift Creek and Centralia Fire Stations; and

WHEREAS, Firefighter Clayton received recognition for 25 years of safe driving without an accident.

NOW, THEREFORE, BE IT RESOLVED, that the Chesterfield County Board of Supervisors, this 25th day of November 2003, recognizes the contributions of Mr. Allen Bruce Clayton, expresses the appreciation of all residents for his service to the county, and extends appreciation for his dedicated service and congratulations upon his retirement.

Ayes: Warren, McHale, Barber, Humphrey and Miller.

Nays: None.

**8.C.1.c. RECOGNIZING MS. SUSAN M. WHITEMAN, DEPARTMENT OF
PUBLIC AFFAIRS, UPON HER RETIREMENT**

On motion of Mrs. Humphrey, seconded by Mr. Warren, the Board adopted the following resolution:

WHEREAS, Ms. Susan M. Whiteman began her employment with Chesterfield County on May 13, 1985 as a part-time secretary at the Chesterfield County Airport; and

WHEREAS, Ms. Whiteman became a full-time employee with the county's News and Information Department on January 2, 1986; and

WHEREAS, Ms. Whiteman provided outstanding administrative support to the director of the department at that time, and to three subsequent directors of that department; and

WHEREAS, Ms. Whiteman, or "Sue," as she is known to everyone, is widely known for her cheerful British accent, her friendly customer service and her extensive knowledge of Chesterfield County issues and history; and

WHEREAS, Ms. Whiteman assisted the Department of News and Information in its growth and transition to the Department of Public Affairs; and

WHEREAS, Ms. Whiteman continually updated her skills, learning to operate new equipment and new software as required to assist with the greatly expanded scope of duties handled by the department; and

WHEREAS, Ms. Whiteman was always willing to work evenings, holidays or any other time when her services were required due to operational commitments, inclement weather, natural disasters or any other reasons; and

WHEREAS, Ms. Whiteman's efficiency and professionalism in a wide range of responsibilities including monitoring coverage of county issues by the media and providing copies of that coverage to county staff and elected officials; handling the department's payroll; budget and accounts payable on a daily basis; liaison with civic organizations, church groups and other organizations; coordinating the county's Speakers Bureau; maintaining current county information on the electronic COMCAST cablevision bulletin board; operating the switchboard at COMCAST for live television programming by the county; and a multitude of other tasks has made her a valuable resource for her department's staff, other county staff, elected officials and the public-at-large; and

WHEREAS, Ms. Whiteman has decided to retire on December 10, 2003 in order to spend more time with her children and grandchildren, to travel and enjoy her hobbies and many interests; and

WHEREAS, those who know her and have had the privilege of working with her will miss Ms. Whiteman's outgoing personality, her smile and her assistance in so many areas of expertise; and

WHEREAS, all who know her wish Ms. Whiteman good health, happiness, and a long and fulfilling retirement.

NOW, THEREFORE, BE IT RESOLVED, that the Chesterfield County Board of Supervisors extends its congratulations to Ms. Susan M. Whiteman on the occasion of her retirement, thanks her for her years of dedicated service to Chesterfield County and its residents, and wishes her much happiness in her well-deserved retirement.

Ayes: Warren, McHale, Barber, Humphrey and Miller.

Nays: None.

8.C.2. AWARD OF CONSTRUCTION CONTRACTS

8.C.2.a. TO SOUTHWOOD BUILDERS, INCORPORATED AND TRANSFER OF FUNDS FOR THE BAILEY BRIDGE PUMP STATION PROJECT

On motion of Mrs. Humphrey, seconded by Mr. Warren, the Board awarded a construction contract to Southwood Builders, Incorporated, in the amount of \$8,989,432.50, for the Bailey Bridge Pump Station project; authorized the County

Administrator to execute the necessary documents; and authorized the transfer of \$2,500,000 from the Upgrades to Pump Stations project to the Bailey Bridge Pump Station project.

Ayes: Warren, McHale, Barber, Humphrey and Miller.
Nays: None.

8.C.2.b. TO CBI CONSTRUCTORS, INCORPORATED AND TRANSFER OF FUNDS FOR THE MEADOWVILLE WATER TANK PROJECT

On motion of Mrs. Humphrey, seconded by Mr. Warren, the Board awarded a construction contract to CBI Constructors, Incorporated, in the amount of \$2,688,000, for the Meadowville Water Tank project; authorized the County Administrator to execute the necessary documents; and authorized the transfer of \$250,000 from the Ruffin Mill Water Line Phase II project to the Meadowville Water Tank project.

Ayes: Warren, McHale, Barber, Humphrey and Miller.
Nays: None.

8.C.3. STATE ROAD ACCEPTANCE

On motion of Mrs. Humphrey, seconded by Mr. Warren, the Board adopted the following resolution:

WHEREAS, the streets described below are shown on plats recorded in the Clerk's Office of the Circuit Court of Chesterfield County; and

WHEREAS, the Resident Engineer for the Virginia Department of Transportation has advised this Board the streets meet the requirements established by the Subdivision Street Requirements of the Virginia Department of Transportation.

NOW, THEREFORE BE IT RESOLVED, that this Board requests the Virginia Department of Transportation to add the streets described below to the secondary system of state highways, pursuant to § 33.1-229, Code of Virginia, and the Department's Subdivision Street Requirements.

AND, BE IT FURTHER RESOLVED, that this Board guarantees a clear and unrestricted right-of-way, as described, and any necessary easements for cuts, fills and drainage.

AND, BE IT FURTHER RESOLVED, that a certified copy of this resolution be forwarded to the Resident Engineer for the Virginia Department of Transportation.

Type Change to the Secondary System of State Highways: Addition

Basis for Change: Addition, New subdivision street

Statutory Reference: §33.1-229

Project: Amstel Bluff, Section F

● **Creekbluff Ridge Drive, State Route Number: 5601**

From: Swiftrock Ridge Dr., (Rt. 4553)

To: Cul-de-sac, a distance of: 0.09 miles.

Right-of-way record was filed on 8/9/2001 with the Office Of Clerk To Circuit Court in Pb. 119; Pg. 71, with a width of 50 Ft.

● **Creekbluff Ridge Drive, State Route Number: 5601**

From: Swiftrock Ridge Dr., (Rt. 4553)

To: Cul-de-sac, a distance of: 0.04 miles.

Right-of-way record was filed on 8/9/2001 with the Office Of Clerk To Circuit Court in Pb. 119; Pg. 71, with a width of 50 Ft.

● **Swiftrock Ridge Drive, State Route Number: 4553**

From: Swiftrock Ridge Pl., (Rt. 4555)

To: Creekbluff Ridge Dr., (Rt. 5601), a distance of: 0.07 miles.

Right-of-way record was filed on 8/9/2001 with the Office Of Clerk To Circuit Court in Pb. 119; Pg. 71, with a width of 50 Ft.

● **Swiftrock Ridge Terrace, State Route Number: 5600**

From: Swiftrock Ridge Dr., (Rt. 4553)

To: Cul-de-sac, a distance of: 0.15 miles.

Right-of-way record was filed on 8/9/2001 with the Office Of Clerk To Circuit Court in Pb. 119; Pg. 71, with a width of 50 Ft.

And, further, the Board adopted the following resolution:

WHEREAS, the streets described below are shown on plats recorded in the Clerk's Office of the Circuit Court of Chesterfield County; and

WHEREAS, the Resident Engineer for the Virginia Department of Transportation has advised this Board the streets meet the requirements established by the Subdivision Street Requirements of the Virginia Department of Transportation.

NOW, THEREFORE BE IT RESOLVED, that this Board requests the Virginia Department of Transportation to add the streets described below to the secondary system of state highways, pursuant to § 33.1-229, Code of Virginia, and the Department's Subdivision Street Requirements.

AND, BE IT FURTHER RESOLVED, that this Board guarantees a clear and unrestricted right-of-way, as described, and any necessary easements for cuts, fills and drainage.

AND, BE IT FURTHER RESOLVED, that a certified copy of this resolution be forwarded to the Resident Engineer for the Virginia Department of Transportation.

Type Change to the Secondary System of State Highways: **Addition**

Basis for Change: **Addition, New subdivision street**
Statutory Reference: **§33.1-229**

Project: **Farmview Estates**
● **Talleywood Court, State Route Number: 4286**

From: Talleywood Ln., (Rt. 4285)
To: Cul-de-sac, a distance of: 0.14 miles.

Right-of-way record was filed on 7/21/1998 with the Office Of Clerk To Circuit Court in Pb. 99; Pg. 60, with
a width of 50 Ft.

● **Talleywood Lane, State Route Number: 4285**

From: Happy Hill Rd., (Rt. 619)
To: Talleywood Ct., (Rt. 4286), a distance of: 0.39 miles.

Right-of-way record was filed on 7/21/1998 with the Office Of Clerk To Circuit Court in Pb. 99; Pg. 60, with
a width of 50 Ft.

● **Talleywood Lane, State Route Number: 4285**

From: Talleywood Ct., (Rt. 4286)
To: Cul-de-sac, a distance of: 0.18 miles.

Right-of-way record was filed on 7/21/1998 with the Office Of Clerk To Circuit Court in Pb. 99; Pg. 60, with
a width of 50 Ft.

And, further, the Board adopted the following resolution:

WHEREAS, the streets described below are shown on plats recorded in the Clerk's Office of the Circuit Court of Chesterfield County; and

WHEREAS, the Resident Engineer for the Virginia Department of Transportation has advised this Board the streets meet the requirements established by the Subdivision Street Requirements of the Virginia Department of Transportation.

NOW, THEREFORE BE IT RESOLVED, that this Board requests the Virginia Department of Transportation to add the streets described below to the secondary system of state highways, pursuant to § 33.1-229, Code of Virginia, and the Department's Subdivision Street Requirements.

AND, BE IT FURTHER RESOLVED, that this Board guarantees a clear and unrestricted right-of-way, as described, and any necessary easements for cuts, fills and drainage.

AND, BE IT FURTHER RESOLVED, that a certified copy of this resolution be forwarded to the Resident Engineer for the Virginia Department of Transportation.

Type Change to the Secondary System of State Highways: **Addition**

Basis for Change: **Addition, New subdivision street**
Statutory Reference: **§33.1-229**

Project: Pleasant Dale, Section B

● **Poinsetta Court, State Route Number: 5624**

From: Poinsetta Dr., (Rt. 5623)

To: Cul-de-sac, a distance of: 0.07 miles.

Right-of-way record was filed on 7/10/1998 with the Office Of Clerk To Circuit Court in Pb.99; Pg 38, with a width of 44 Ft.

● **Poinsetta Drive, State Route Number: 5623**

From: W. Grove Av., (Rt. 1527)

To: Poinsetta Ct., (Rt. 5624), a distance of: 0.06 miles.

Right-of-way record was filed on 7/10/1998 with the Office Of Clerk To Circuit Court in Pb.99; Pg 38, with a width of 44 Ft.

● **Poinsetta Drive, State Route Number: 5623**

From: Poinsetta Ct., (Rt. 5624)

To: Cul-de-sac, a distance of: 0.06 miles.

Right-of-way record was filed on 7/10/1998 with the Office Of Clerk To Circuit Court in Pb.99; Pg 38, with a width of 44 Ft.

And, further, the Board adopted the following resolution:

WHEREAS, the streets described below are shown on plats recorded in the Clerk's Office of the Circuit Court of Chesterfield County; and

WHEREAS, the Resident Engineer for the Virginia Department of Transportation has advised this Board the streets meet the requirements established by the Subdivision Street Requirements of the Virginia Department of Transportation.

NOW, THEREFORE BE IT RESOLVED, that this Board requests the Virginia Department of Transportation to add the streets described below to the secondary system of state highways, pursuant to § 33.1-229, Code of Virginia, and the Department's Subdivision Street Requirements.

AND, BE IT FURTHER RESOLVED, that this Board guarantees a clear and unrestricted right-of-way, as described, and any necessary easements for cuts, fills and drainage.

AND, BE IT FURTHER RESOLVED, that a certified copy of this resolution be forwarded to the Resident Engineer for the Virginia Department of Transportation.

Type Change to the Secondary System of State Highways: Addition

Basis for Change: Addition, New subdivision street

Statutory Reference: §33.1-229

Project: Rivers Trace, Section B

● **Corte Castle Court, State Route Number: 5562**

From: Corte Castle Rd., (Rt. 4757)

To: Cul-de-sac, a distance of: 0.12 miles.

Right-of-way record was filed on 7/18/2001 with the Office Of Clerk To Circuit Court in Pb.119; Pg. 34-36,
with a width of 50 Ft.

● Corte Castle Road, State Route Number: 4757

From: 0.25 Mi. W of Pypers Pointe Dr., (Rt. 4756)

To: Corte Castle Ct., (Rt. 5562), a distance of: 0.09 miles.

Right-of-way record was filed on 7/18/2001 with the Office Of Clerk To Circuit Court in Pb.119; Pg. 34-36,
with a width of 50 Ft.

● Corte Castle Road, State Route Number: 4757

From: Corte Castle Ct., (Rt. 5562)

To: 0.24 Mi. W of Corte Castle Ct., (Rt. 5562), a distance of: 0.24 miles.

Right-of-way record was filed on 7/18/2001 with the Office Of Clerk To Circuit Court in Pb.119; Pg. 34-36,
with a width of 50 Ft.

And, further, the Board adopted the following resolution:

WHEREAS, the streets described below are shown on plats recorded in the Clerk's Office of the Circuit Court of Chesterfield County; and

WHEREAS, the Resident Engineer for the Virginia Department of Transportation has advised this Board the streets meet the requirements established by the Subdivision Street Requirements of the Virginia Department of Transportation.

NOW, THEREFORE BE IT RESOLVED, that this Board requests the Virginia Department of Transportation to add the streets described below to the secondary system of state highways, pursuant to § 33.1-229, Code of Virginia, and the Department's Subdivision Street Requirements.

AND, BE IT FURTHER RESOLVED, that this Board guarantees a clear and unrestricted right-of-way, as described, and any necessary easements for cuts, fills and drainage.

AND, BE IT FURTHER RESOLVED, that a certified copy of this resolution be forwarded to the Resident Engineer for the Virginia Department of Transportation.

Type Change to the Secondary System of State Highways: Addition

Basis for Change: Addition, New subdivision street

Statutory Reference: §33.1-229

Project: Rivers Trace, Section C

● Corte Castle Place, State Route Number: 5563

From: Corte Castle Rd., (Rt. 4757)

To: Cul-de-sac, a distance of: 0.09 miles.

Right-of-way record was filed on 7/19/2001 with the Office Of Clerk To Circuit Court in Pb. 119; Pg. 38-39,

with a width of 50 Ft.

● **Corte Castle Road, State Route Number: 4757**

From: 0.31 Mi. W of Corte Castle Ct., (Rt. 5562)

To: Corte Castle Pl., (Rt. 5563), a distance of: 0.07 miles.

Right-of-way record was filed on 7/19/2001 with the Office Of Clerk To Circuit Court in Pb. 119; Pg. 38-39,

with a width of 50 Ft.

● **Corte Castle Road, State Route Number: 4757**

From: Corte Castle Pl., (Rt. 5563)

To: 0.03 Mi. W of Corte Castle Pl., (Rt. 5563), a distance of: 0.03 miles.

Right-of-way record was filed on 7/19/2001 with the Office Of Clerk To Circuit Court in Pb. 119; Pg. 38-39,

with a width of 50 Ft.

Right-of-way record was filed on 11/24/99 with the Office Of Clerk To Circuit Court in Pb. 37179; Pg. 895

with a width of 50 Ft.

Ayes: Warren, McHale, Barber, Humphrey and Miller.

Nays: None.

**8.C.4. AUTHORIZE THE RECEIPT OF APPROPRIATION OF GRANT FUNDS
FROM THE DEPARTMENT OF HOMELAND SECURITY FOR THE
COMMUNITY EMERGENCY RESPONSE TEAMS**

On motion of Mrs. Humphrey, seconded by Mr. Warren, the Board authorized the Fire and Emergency Medical Services Department, Office of Emergency Management, to receive \$20,180 in grant funds from the Department of Homeland Security for training and coordinating the Community Emergency Response Teams (CERT).

Ayes: Warren, McHale, Barber, Humphrey and Miller.

Nays: None.

**8.C.5. CONVEYANCE OF AN EASEMENT TO VIRGINIA ELECTRIC AND
POWER COMPANY FOR UNDERGROUND CABLE TO SERVE FOUNDERS
BRIDGE, SECTION 2**

On motion of Mrs. Humphrey, seconded by Mr. Warren, the Board authorized the Chairman of the Board of Supervisors and the County Administrator to execute an easement agreement with Virginia Electric and Power Company for underground cable to serve Founders Bridge, Section 2. (It is noted a copy of the vicinity sketch is filed with the papers of this Board.)

Ayes: Warren, McHale, Barber, Humphrey and Miller.

Nays: None.

8.C.6. REQUESTS TO QUITCLAIM

**8.C.6.a. A PORTION OF A VARIABLE WIDTH STORM WATER
MANAGEMENT/BEST MANAGEMENT PRACTICE EASEMENT
ACROSS THE PROPERTY OF A. P. PROPERTIES,
LIMITED PARTNERSHIP**

On motion of Mrs. Humphrey, seconded by Mr. Warren, the Board authorized the Chairman of the Board of Supervisors and the

County Administrator to execute a quitclaim deed to vacate a portion of a variable width storm water management/best management practice easement across the property of A. P. Properties, Limited Partnership. (It is noted a copy of the plat is filed with the papers of this Board.)

Ayes: Warren, McHale, Barber, Humphrey and Miller.

Nays: None.

**8.C.6.b. A PORTION OF A SIXTEEN-FOOT DRAINAGE EASEMENT
ACROSS THE PROPERTY OF SOMMERVILLE DEVELOPMENT
CORPORATION**

On motion of Mrs. Humphrey, seconded by Mr. Warren, the Board authorized the Chairman of the Board of Supervisors and the County Administrator to execute a quitclaim deed to vacate a portion of a sixteen-foot drainage easement across the property of Sommerville Development Corporation. (It is noted a copy of the plat is filed with the papers of this Board.)

Ayes: Warren, McHale, Barber, Humphrey and Miller.

Nays: None.

**8.C.6.c. A SIXTEEN-FOOT WATER EASEMENT ACROSS THE PROPERTY
OF THE TRUSTEES OF SYCAMORE PRESBYTERIAN CHURCH**

On motion of Mrs. Humphrey, seconded by Mr. Warren, the Board authorized the Chairman of the Board of Supervisors and the County Administrator to execute a quitclaim deed to vacate a sixteen-foot water easement across the property of the Trustees of Sycamore Presbyterian Church. (It is noted a copy of the plat is filed with the papers of this Board.)

Ayes: Warren, McHale, Barber, Humphrey and Miller.

Nays: None.

8.C.7. ACCEPTANCE OF PARCELS OF LAND

**8.C.7.a. WEST OF TEMIE LEE PARKWAY AND NORTH OF HULL STREET
ROAD FROM LINWOOD ELTON BOTTOMS, JR. AND KEVIN
BOTTOMS**

On motion of Mrs. Humphrey, seconded by Mr. Warren, the Board accepted the conveyance of two parcels of land containing a total of 0.392 acres west of Temie Lee Parkway and North of Hull Street Road (U.S. Route 360) from Linwood Elton Bottoms, Jr. and Kevin Bottoms, and authorized the County Administrator to execute the deed. (It is noted a copy of the plat is filed with the papers of this Board.)

Ayes: Warren, McHale, Barber, Humphrey and Miller.

Nays: None.

**8.C.7.b. EAST OF SOUTHSHORE DRIVE FROM THE TRUSTEES OF THE
DANKOS FAMILY TRUST**

On motion of Mrs. Humphrey, seconded by Mr. Warren, the Board accepted the conveyance of a parcel of land containing 0.551 acres east of Southshore Drive (State Route 4777) from the Trustees of Dankos Family Trust, and authorized the County

Administrator to execute the deed. (It is noted a copy of the plat is filed with the papers of this Board.)

Ayes: Warren, McHale, Barber, Humphrey and Miller.

Nays: None.

8.C.7.c. ADJACENT TO THE NORTHWEST RIGHT OF WAY LINE OF BELMONT ROAD FROM THE TRUSTEES OF FAMILY CHURCH OF GOD WORSHIP CENTER

On motion of Mrs. Humphrey, seconded by Mr. Warren, the Board accepted the conveyance of a parcel of land containing 0.703 acres adjacent to the northwest right of way line of Belmont Road (State Route 651) from the Trustees of Family Church of God Worship Center, and authorized the County Administrator to execute the deed. (It is noted a copy of the plat is filed with the papers of this Board.)

Ayes: Warren, McHale, Barber, Humphrey and Miller.

Nays: None.

8.C.7.d. NORTH OF HULL STREET ROAD FROM HEARTLAND RICHMOND HIGHWAY 360 LIMITED PARTNERSHIP

On motion of Mrs. Humphrey, seconded by Mr. Warren, the Board accepted the conveyance of a parcel of land containing 0.370 acres north of Hull Street Road (U.S. Route 360) from Heartland Richmond Highway 360 Limited Partnership, and authorized the County Administrator to execute the deed. (It is noted a copy of the plat is filed with the papers of this Board.)

Ayes: Warren, McHale, Barber, Humphrey and Miller.

Nays: None.

8.C.7.e. ALONG THE SOUTH RIGHT OF WAY LINE OF MURRAY OLDS DRIVE FROM JAMESTOWNE BUILDERS, INCORPORATED

On motion of Mrs. Humphrey, seconded by Mr. Warren, the Board accepted the conveyance of a parcel of land containing 0.030 acres along the south right of way line of Murray Olds Drive (State Route 727) from Jamestowne Builders, Incorporated, and authorized the County Administrator to execute the deed. (It is noted a copy of the plat is filed with the papers of this Board.)

Ayes: Warren, McHale, Barber, Humphrey and Miller.

Nays: None.

8.C.7.f. ALONG THE EAST RIGHT OF WAY LINE OF OLD HUNDRED ROAD FROM THE TRUSTEES OF LIVING HOPE LUTHERAN CHURCH

On motion of Mrs. Humphrey, seconded by Mr. Warren, the Board accepted the conveyance of a parcel of land containing 0.18 acres along the east right of way line of Old Hundred Road (State Route 652) from the Trustees of Living Hope Lutheran Church, and authorized the County Administrator to execute

the deed. (It is noted a copy of the plat is filed with the papers of this Board.)

Ayes: Warren, McHale, Barber, Humphrey and Miller.

Nays: None.

**8.C.7.g. ALONG THE EAST RIGHT OF WAY LINE OF OTTERDALE ROAD
FROM ERNEST A. STOPF AND ALMA L. STOPF**

On motion of Mrs. Humphrey, seconded by Mr. Warren, the Board accepted the conveyance of a parcel of land containing 0.151 acres along the east right of way line of Otterdale Road (State Route 667) from Ernest A. Stopf and Alma L. Stopf, and authorized the County Administrator to execute the deed. (It is noted a copy of the plat is filed with the papers of this Board.)

Ayes: Warren, McHale, Barber, Humphrey and Miller.

Nays: None.

8.C.7.h. EAST OF SOUTHSORE DRIVE FROM TAD PROPERTIES, LLC

On motion of Mrs. Humphrey, seconded by Mr. Warren, the Board accepted the conveyance of a parcel of land containing 0.157 acres east of Southshore Drive (State Route 4777) from TAD Properties, LLC, and authorized the County Administrator to execute the deed. (It is noted a copy of the plat is filed with the papers of this Board.)

Ayes: Warren, McHale, Barber, Humphrey and Miller.

Nays: None.

8.C.7.i. ON CARVER HEIGHTS DRIVE FROM NINA V. SHOOSMITH

On motion of Mrs. Humphrey, seconded by Mr. Warren, the Board accepted the conveyance of a parcel of land containing 1.7044 acres on Carver Heights Drive (State Route 708) from Nina V. Shoosmith, and authorized the County Administrator to execute the deed. (It is noted a copy of the plat is filed with the papers of this Board.)

Ayes: Warren, McHale, Barber, Humphrey and Miller.

Nays: None.

8.C.8. REQUESTS FOR PERMISSION

**8.C.8.a. FROM THE TRUSTEES OF THE CLOVER HILL MASONIC LODGE
NUMBER 253, A.F. AND A.M. TO INSTALL A PRIVATE
WATER SERVICE WITHIN A PRIVATE EASEMENT TO SERVE
PROPERTY ON HULL STREET ROAD**

On motion of Mrs. Humphrey, seconded by Mr. Warren, the Board approved a request from the Trustees of the Clover Hill Masonic Lodge Number 253, A.F. and A.M. for permission to install a private water service within a private easement to serve property at 16301 Hull Street Road, and authorized the County Administrator to execute the water connection agreement. (It is noted a copy of the plat is filed with the papers of this Board.)

Ayes: Warren, McHale, Barber, Humphrey and Miller.

Nays: None.

8.C.8.b. FROM PEGGY D. HARGRAVE TO INSTALL A PRIVATE WATER SERVICE WITHIN A PRIVATE EASEMENT AND AN EIGHT-FOOT COUNTY EASEMENT TO SERVE PROPERTY ON HARGRAVE HILL LANE

On motion of Mrs. Humphrey, seconded by Mr. Warren, the Board approved a request from Peggy D. Hargrave for permission to install a private water service within a private easement and an eight-foot county easement, subject to the execution of a license agreement, and authorized the County Administrator to execute the water connection agreement. (It is noted a copy of the plat is filed with the papers of this Board.)

Ayes: Warren, McHale, Barber, Humphrey and Miller.
Nays: None.

8.C.8.c. FROM STEVEN C. OVERGARD AND DAWN M. OVERGARD TO CONSTRUCT A GRAVEL DRIVEWAY WITHIN A FORTY-FOOT UNIMPROVED RIGHT OF WAY

On motion of Mrs. Humphrey, seconded by Mr. Warren, the Board approved a request from Steven C. Overgard and Dawn M. Overgard for permission to construct a gravel driveway within a forty-foot unimproved right of way for a proposed dwelling, subject to the execution of a license agreement. (It is noted a copy of the plat is filed with the papers of this Board.)

Ayes: Warren, McHale, Barber, Humphrey and Miller.
Nays: None.

8.C.9. APPROVAL OF CHANGE ORDER TO THE CONSTRUCTION CONTRACT WITH KENBRIDGE CONSTRUCTION COMPANY FOR REVISIONS TO THE EMERGENCY POWER SYSTEM FOR THE JUVENILE DETENTION HOME PROJECT

On motion of Mrs. Humphrey, seconded by Mr. Warren, the Board authorized the County Administrator to execute a change order with Kenbridge Construction Company, in the amount of \$68,613, for revisions to the emergency power system in the new Juvenile Detention Home.

Ayes: Warren, McHale, Barber, Humphrey and Miller.
Nays: None.

8.C.10. SET DATES FOR PUBLIC HEARINGS

8.C.10.a. TO CONSIDER THE TAX EXEMPTION REQUEST OF MEALS ON WHEELS OF GREATER RICHMOND, INCORPORATED

On motion of Mrs. Humphrey, seconded by Mr. Warren, the Board set the date of December 17, 2003 at 7:00 p.m. for a public hearing to consider the tax exemption request of Meals on Wheels of Greater Richmond, Incorporated.

Ayes: Warren, McHale, Barber, Humphrey and Miller.
Nays: None.

**8.C.10.c. TO CONSIDER A PROPOSED CHARTER AMENDMENT REGARDING
SUSPENSION FOR THE ELDERLY OF PAYMENT OF
ASSESSMENTS DUE FOR SEWER AND WATER ASSESSMENT
DISTRICTS**

On motion of Mrs. Humphrey, seconded by Mr. Warren, the Board set the date of December 17, 2003 at 7:00 p.m. for a public hearing to consider a proposed charter amendment regarding suspension for the elderly of payment of assessments due for sewer and water assessment districts.

Ayes: Warren, McHale, Barber, Humphrey and Miller.

Nays: None.

**8.C.11. APPROVAL OF DONATION TO THE MANCHESTER VOLUNTEER
RESCUE SQUAD IN THE MATOACA DISTRICT**

On motion of Mrs. Humphrey, seconded by Mr. Warren, the Board appropriated \$3,663 for a donation to the Manchester Volunteer Rescue Squad for a sewer connection fee.

Ayes: Warren, McHale, Barber, Humphrey and Miller.

Nays: None.

8.C.12. TRANSFER OF DISTRICT IMPROVEMENT FUNDS

**8.C.12.a. FROM THE MIDLOTHIAN DISTRICT IMPROVEMENT FUND TO
THE CHESTERFIELD COUNTY FIRE AND EMERGENCY
SERVICES DEPARTMENT TO PURCHASE A FIRE PUMPER FOR
THE BON AIR/ROBIOUS STATION**

On motion of Mrs. Humphrey, seconded by Mr. Warren, the Board transferred \$20,000 from the Midlothian District Improvement Fund to the Chesterfield County Fire and Emergency Services Department to purchase a fire pumper for the Bon Air/Robious Station.

Ayes: Warren, McHale, Barber, Humphrey and Miller.

Nays: None.

**8.C.12.b. FROM BERMUDA DISTRICT IMPROVEMENT FUND TO THE
PARKS AND RECREATION DEPARTMENT FOR THE PURCHASE
OF A SCOREBOARD FOR CURTIS ELEMENTARY SCHOOL**

On motion of Mrs. Humphrey, seconded by Mr. Warren, the Board transferred \$1,200 from the Bermuda District Improvement Fund to the Parks and Recreation Department for the purchase of a scoreboard for Curtis Elementary School.

Ayes: Warren, McHale, Barber, Humphrey and Miller.

Nays: None.

9. HEARINGS OF CITIZENS ON UNSCHEDULED MATTERS OR CLAIMS

There were no hearings of citizens on unscheduled matters or claims at this time.

10. REPORTS

10.A. REPORT ON THE DEVELOPER WATER AND SEWER CONTRACTS

10.B. REPORT ON THE STATUS OF GENERAL FUND BALANCE, RESERVE

**FOR FUTURE CAPITAL PROJECTS, DISTRICT IMPROVEMENT
FUNDS AND LEASE PURCHASES**

On motion of Mrs. Humphrey, seconded by Mr. Miller, the Board accepted the following reports: a report on Developer Water Contracts; and a status report on the General Fund Balance, Reserve for Future Capital Projects, District Improvement Funds, and Lease Purchases.

Ayes: Warren, McHale, Barber, Humphrey and Miller.

Nays: None.

10.C. SUBSTANTIAL ACCORD DETERMINATION REPORTS

10.C.1. FOR A PUBLIC HIGH SCHOOL ON COSBY ROAD (CASE NO. 04PD0188)

10.C.2. FOR A PUBLIC MIDDLE SCHOOL ON HULL STREET ROAD (CASE NO. 04PD0158)

10.C.3. FOR A PUBLIC HIGH SCHOOL ON GENITO ROAD (CASE NO. 04PD0163)

Mr. Micas stated if the Board votes to accept the reports, the Planning Commission's substantial accord determinations will become final subject to any appeals.

Mr. Miller made a motion, seconded by Mrs. Humphrey, for the Board to accept the substantial accord determination reports for a public high school on Cosby Road; a public middle school on Hull Street Road; and a public high school on Genito Road.

When asked, Mr. Micas stated the Board can reverse the Planning Commission's substantial accord determinations upon hearing the appeals.

Mr. McHale made a substitute motion for the Board to defer consideration of the Planning Commission's substantial accord determination reports until December 11, 2003.

Mr. Micas stated there are consequences to accepting the reports.

Mr. Warren seconded Mr. McHale's substitute motion.

Mr. Barber stated he will not support the substitute motion because he would like the opportunity to support the Planning Commission's substantial accord determination of the Cosby Road site.

Mr. Miller stated he will support the substitute motion to defer the reports, but indicated he, too, supports the Planning Commission's substantial accord determination on the Cosby Road site.

Mr. Warren called for a vote on the substitute motion of Mr. McHale, seconded by Mr. Warren, for the Board to defer consideration of the substantial accord determination reports for a public high school on Cosby Road (Case No. 04PD0188), a public middle school on Hull Street Road (Case No. 04PD0158), and a public high school on Genito Road (Case No. 04PD0163), until December 11, 2003.

Ayes: Warren, McHale, Humphrey and Miller.

Nays: Barber.

After brief discussion, Mr. Warren stated public comment will be permitted at the December 11, 2003 meeting relative to the appeals to the Planning Commission's substantial accord determinations.

11. CLOSED SESSION PURSUANT TO SECTION 2.2-3711(A)(7), CODE OF VIRGINIA, 1950, AS AMENDED, FOR LEGAL ADVICE BY COUNSEL INVOLVING SIMPSON V. COUNTY OF CHESTERFIELD

On motion of Mr. McHale, seconded by Mr. Miller, the Board went into a Closed Session pursuant to Section 2.2-3711(A)(7), Code of Virginia, 1950, as amended, for legal advice by counsel involving Simpson v. County of Chesterfield.

Ayes: Warren, McHale, Barber, Humphrey and Miller.

Nays: None.

Reconvening:

On motion of Mr. McHale, seconded by Mr. Warren, the Board adopted the following resolution:

WHEREAS, the Board of Supervisors has this day adjourned into Closed Session in accordance with a formal vote of the Board and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, the Virginia Freedom of Information Act effective July 1, 1989 provides for certification that such Closed Session was conducted in conformity with law.

NOW, THEREFORE BE IT RESOLVED, the Board of Supervisors does hereby certify that to the best of each member's knowledge, i) only public business matters lawfully exempted from open meeting requirements under the Freedom of Information Act were discussed in the Closed Session to which this certification applies, and

ii) only such public business matters as were identified in the Motion by which the Closed Session was convened were heard, discussed, or considered by the Board. No member dissents from this certification.

The Board being polled, the vote was as follows:

Mr. Miller: Aye.
Mrs. Humphrey: Aye.
Mr. Barber: Aye.
Mr. McHale: Aye.
Mr. Warren: Aye.

12. DINNER

On motion of Mr. McHale, seconded by Mr. Miller, the Board recessed to the Administration Building, Room 502, for dinner.

Ayes: Warren, McHale, Barber, Humphrey and Miller.

Nays: None.

Reconvening:

13. INVOCATION

Reverend Jerome Hancock, Pastor of Southside Church of the Nazarene gave the invocation.

14. PLEDGE OF ALLEGIANCE TO THE FLAG OF THE UNITED STATES OF AMERICA

Mr. Bradford Hammer, Deputy County Administrator, led the Pledge of Allegiance to the flag of the United States of America.

15. RESOLUTIONS AND SPECIAL RECOGNITIONS

There were no resolutions of special recognitions at this time.

16. REQUESTS FOR MOBILE HOME PERMITS AND REZONING PLACED ON THE CONSENT AGENDA TO BE HEARD IN THE FOLLOWING ORDER:
- WITHDRAWALS/DEFERRALS - CASES WHERE THE APPLICANT ACCEPTS THE RECOMMENDATION AND THERE IS NO OPPOSITION
- CASES WHERE THE APPLICANT DOES NOT ACCEPT THE RECOMMENDATION AND/OR THERE IS PUBLIC OPPOSITION WILL BE HEARD AT SECTION 18

03SN0315

In Clover Hill Magisterial District, WILLIAM SOWERS requests rezoning and amendment of zoning district map from Agricultural (A) to Light Industrial (I-1) with Conditional Use to permit outside storage. The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for light industrial use. This request lies on 35.6 acres fronting approximately 550 feet on the south line of Genito Road, approximately 600 feet east of Warbro Road and also fronting approximately 1,900 feet on the east line of Warbro Road, approximately 1,700 feet south of Genito Road. Tax IDs 736-686-8635 and 736-687-8633 (Sheet 10).

Mr. Jacobson stated the applicant has requested a deferral until January 28, 2004.

Ms. Kristen Keatley, representing the applicant, requested a deferral until January 28, 2004.

Mr. Warren called for public comment.

Mrs. Goldie Jordan stated the residents of Plum Creek, South Ridge and Beaver Point have many concerns and requested that she and others be allowed to meet with the applicant, county staff and Mr. Warren prior to the January 28, 2004 meeting regarding the proposed development.

Mr. Jacobson stated staff will schedule a meeting with Mrs. Jordan regarding the proposed development.

There being no one else to speak to the deferral, the public hearing was closed.

On motion of Mr. Warren, seconded by Mr. Barber, the Board deferred Case 03SN0315 until January 28, 2004.

Ayes: Warren, McHale, Barber, Humphrey and Miller.

Nays: None.

03SN0214 (Amended)

In Matoaca Magisterial District, JAMES M. BLALOCK requests amendment to Conditional Use Planned Development (Case 95SN0307) and amendment of zoning district map relative to uses, hours of operation and gross floor area for property known as Tract 6. The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for single family residential use of 2.0 units per acre or less. This request lies in a Residential (R-9) District on 6.5 acres lying approximately 1,340 feet off the north line of Genito Road, measured from the intersection of Genito and Woolridge Roads. Tax ID 719-687-Part of 2732 (Sheet 9).

Mr. Jacobson stated Mrs. Humphrey has requested a deferral until January 28, 2004.

Mr. Bernard Savage, representing the applicant, stated the applicant has addressed all concerns expressed relative to the proposed development through a fax to Ms. Beverly Rogers, and indicated he does not support the deferral.

Mr. Warren called for public comment.

Mr. Chris McCarthy, representing Edgewater Subdivision residents, stated he feels it would be in the best interest of the residents to defer the case because there are still issues that need to be resolved.

Mr. Barber inquired whether Mr. McCarthy feels the request could be considered at the December 17, 2003 meeting.

Mr. McCarthy stated he does not feel the issues can be resolved in 30 days.

When asked, Mr. McCarthy stated he has met with Mr. Savage on one occasion and with Mr. Blalock on several occasions.

Ms. Kathy Revere stated the Edgewater residents are requesting a deferral because many things that have been promised have not taken place.

When asked, Ms. Revere stated she does not anticipate these issues will be resolved in 30 days.

There being no one else to speak to the deferral, the public hearing was closed.

When asked, Ms. Rogers stated she received a statement from Mr. McCarthy expressing the residents' concerns and also a statement from Mr. Savage addressing these concerns.

Mr. Savage stated the document he presented to Ms. Rogers today will address the issues raised by Mr. McCarthy.

Ms. Rogers stated the promises made in writing by Mr. Savage would not be legally enforceable unless they were proffered conditions.

Mr. Micas stated state law precludes the Board from accepting new proffered conditions after a meeting has begun.

Ms. Rogers stated, because the request is for a Conditional Use Planned Development, the Board could impose conditions tonight if an agreement could be reached.

Mrs. Humphrey stated she has requested a deferral because of the Edgewater residents' concerns regarding the placement of a car wash on the subject property.

Mr. Savage stated he has provided a drawing depicting the car wash being moved to the rear of the convenience store. He further stated he feels the issues can be resolved in 30 minutes.

Mr. McCarthy stated the residents' concerns were provided to the applicant in June 2003, and the residents are looking for specifics. He further stated he does not feel the issues can be resolved tonight.

Mr. Miller stated he will support the deferral, but feels four months should have been sufficient time for the applicant to address the residents' concerns.

Mrs. Humphrey stated she is disappointed that the issues have not been resolved, and she feels the applicant needs to put his promises in writing as conditions.

Mrs. Humphrey then made a motion, seconded by Mr. Warren, for the Board to defer Case 03SN0214 until January 28, 2004.

Ayes: Warren, McHale, Barber, Humphrey and Miller.

Nays: None.

03SN0318

In Bermuda Magisterial District, BERMUDA TRIANGLE PROPERTY, L.P. requests rezoning and amendment of zoning district map from Agricultural (A) to General Industrial (I-2) on 16.2 acres with Conditional Use Planned Development to permit exceptions to Ordinance requirements on this property and an adjacent 14.2 acre parcel currently zoned General Industrial (I-2). The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for light industrial use. This request lies on 30.4 acres fronting approximately sixty-five (65) feet on the east line of Old Stage Road and lying at the western terminus of Battery Dantzler Road. Tax IDs 803-655-7389, 803-656-9752 and 804-655-0597 and 2647 (Sheet 27).

Mr. Jacobson presented a summary of Case 03SN0318 and stated the Planning Commission and staff recommend approval subject to conditions and acceptance of the proffered conditions. He noted the request conforms to the Consolidated Eastern Area Plan.

Mr. Dean Hawkins, representing the applicant, stated the recommendation is acceptable.

Mr. Warren called for public comment.

No one came forward to speak to the request.

On motion of Mr. McHale, seconded by Mr. Barber, the Board approved Case 03SN0318 subject to the following conditions:

1. In conjunction with approval of this request, an exception shall be granted to allow uses and accessory uses on this property to be located a minimum of fifty (50) feet from Tax IDs 803-655-7579, 7963 and 8949 and 803-656-5830 until such time as those parcels are zoned for similar uses. (P)
2. Development shall not occur on the portion of the property east of the power lines and adjacent to the James River unless a hard-lined conveyance system is constructed to the James River. (EE)

And, further, the Board accepted the following proffered conditions:

1. The public water and wastewater systems shall be used. (U)
2. Prior to any site plan approval, a sixty (60) foot wide right-of-way for a public road ("Battery Dantzler Road Extended") from the current terminus of Battery Dantzler Road to Old Stage Road shall be dedicated, free and unrestricted, to and for the benefit of Chesterfield County. The exact location of this right-of-way shall be approved by the Transportation Department. (T)
3. Direct access from the property to Old Stage Road shall be limited to Battery Dantzler Road Extended. (T)
4. To provide for an adequate roadway system, the developer shall be responsible for the following road improvements:
 - a. Construction of two (2) lanes of Battery Dantzler Road Extended from its current terminus to Old Stage Road;
 - b. Construction of additional pavement along Old Stage Road at the Battery Dantzler Road Extended intersection to provide right and left turn lanes based on Transportation Department standards; and
 - c. Dedication to Chesterfield County, free and unrestricted, of any additional right-of-way (or easements) required for the above improvements. (T)

5. Prior to any site plan approval, a phasing plan for the required road improvements as identified in Proffered Condition 4 shall be submitted to and approved by the Transportation Department. The approved phasing plan shall require construction of Battery Dantzler Road Extended from its current terminus to Old Stage Road, as identified in proffered condition 4.a, prior to the issuance of a certificate of occupancy. (T)
6. Upon the request of the Chesterfield County Department of Parks and Recreation, the Owner shall dedicate a minimum 100-foot wide, perpetual open-space access easement along the James River frontage, to the County of Chesterfield, running generally parallel to the James River. (P&R)

Ayes: Warren, McHale, Barber, Humphrey and Miller.

Nays: None.

04SN0103

In Matoaca Magisterial District, GARY COLLINS requests Conditional Use and amendment of zoning district map to permit a model home in a Residential (R-12) District. The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for single family residential use of 2.0 units per acre or less. This request lies on 2.0 acres fronting approximately 450 feet on the west line of Hensley Road, approximately 1,300 feet north of Brandy Crest Drive. Tax ID 726-662-Part of 2430 (Sheet 23).

Mr. Jacobson presented a summary of Case 04SN0103 and stated the Planning Commission and staff recommend approval subject to conditions.

Mr. Gary Collins stated the recommendation is acceptable.

Mr. Warren called for public comment.

No one came forward to speak to the request.

On motion of Mrs. Humphrey, seconded by Mr. Barber, the Board approved Case 04SN0103 subject to the following conditions:

1. A temporary model home shall be permitted in a modular unit provided such unit shall be utilized for a maximum of 180 days from the date of approval of this request. At the end of the 180 days, the temporary sales trailer shall be removed and the temporary model home may be located within a permanent dwelling on the property. (P)
2. The model home shall only be used to market the development (Collington Subdivision) in which it is located and shall not be used for the sale of lots or houses outside of the development (Collington Subdivision) in which it is located. (P)
3. The model home shall not be the primary real estate office for the company marketing the development. (P)

4. The model home shall be incidental to construction activity taking place within the development (Collington Subdivision). (P)

Ayes: Warren, McHale, Barber, Humphrey and Miller.

Nays: None.

04SN0114

In Dale Magisterial District, BALZER & ASSOC. INC. requests amendment to zoning (Case 97SN0269) and amendment of zoning district map relative to tree preservation strip. The Comprehensive Plan suggests the property is appropriate for residential use of 1 to 2.5 units per acre. This request lies in a Residential (R-9) District on 0.3 acre and is known as 9636 Lockberry Ridge Loop. Tax ID 779-665-9486 (Sheet 26).

Mr. Jacobson presented a summary of Case 04SN0114 and stated the Planning Commission recommended approval and acceptance of the proffered condition.

Mr. Warren recognized Mr. R. M. "Dickie" King, Jr., newly elected Bermuda District Supervisor, who was present at the meeting.

Ms. Kristen Keatley, representing the applicant, stated the Planning Commission's recommendation is acceptable.

Mr. Warren called for public comment.

No one came forward to speak to the request.

On motion of Mr. Miller, seconded by Mr. McHale, the Board approved Case 04SN0114 and accepted the following proffered condition:

A twenty-four (24) foot tree preservation strip shall be maintained along the southern property line adjacent to the existing residential lots within Salem Woods, Section "E". All trees eight (8) inches in caliper or greater shall be retained except that dead, diseased or dying trees eight (8) inches or greater in caliper may be removed. This tree preservation area shall be exclusive of easements. For lots adjacent to existing residential lots within Salem Woods, Section "E", a minimum rear yard setback of 25 feet (R-12 standard) shall be provided exclusive of the tree preservation strip. (P)

(Staff Note: This proffered condition supersedes Proffered Condition 15 of Case 97SN0269 for the request property only.)

Ayes: Warren, McHale, Barber, Humphrey and Miller.

Nays: None.

04SN0130

In Matoaca Magisterial District, VERIZON WIRELESS requests amendment to Conditional Use Planned Development (Case 02SN0217) and amendment of zoning district map relative to the time limitation for a temporary communications tower.

The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for residential use on 1-5 acre lots, suited to R-88 zoning. This request lies on 3.7 acres fronting approximately 375 feet on the north line of Trents Bridge Road, also fronting approximately 375 feet on the west line of River Road and located in the northwest quadrant of the intersection of these roads. Tax ID 754-624-6621 (Sheet 40).

Mr. Jacobson presented a summary of Case 04SN0130 and stated the Planning Commission and staff recommended approval and acceptance of the proffered condition.

Mr. Chuck Rothenberg, representing the applicant, stated the recommendation is acceptable.

Mr. Warren called for public comment.

No one came forward to speak to the request.

After brief discussion, on motion of Mrs. Humphrey, seconded by Mr. McHale, the Board approved Case 04SN0130 and accepted the following proffered condition:

This Conditional Use Planned Development shall automatically expire on June 1, 2004. (P)

(Note: This Proffered Condition supercedes Proffered Condition 4 of Case 02SN0217.)

Ayes: Warren, McHale, Barber, Humphrey and Miller.

Nays: None.

04SR0156

In Matoaca Magisterial District, MARY H. BARLOW requests renewal of Manufactured Home Permit 97SN0108 to park a manufactured home in a Residential (R-7) District. The density of this proposal is approximately 0.10 units per acre. The Comprehensive Plan suggests the property is appropriate for residential use of 1 - 5 acre lots. This property is known as 6120 Matoaca Road. Tax ID 780-622-4266 (Sheet 41).

Mr. Jacobson presented a summary of Case 04SR0156 and stated staff recommends approval for seven (7) years subject to conditions. He further stated the applicant has requested modification of Condition 1 that would allow the current property owner's father to live in the manufactured home.

Ms. Mary Barlow, accompanied by her father, Mr. John Hubbard, Jr., stated the recommendation is acceptable.

Mr. Warren called for public comment.

Ms. Mervis Farmer, adjoining property owner, stated she does not support the request.

There being no one else to speak to the request, the public hearing was closed.

Mrs. Humphrey stated the applicant has met all conditions, and she understands the applicant's desire for her father to be allowed to live in the manufactured home.

On motion of Mrs. Humphrey, seconded by Mr. McHale, the Board suspended its rules at this time to allow for the amended condition.

Ayes: Warren, McHale, Barber, Humphrey and Miller.

Nays: None.

On motion of Mrs. Humphrey, seconded by Mr. Miller, the Board approved Case 04SR0156 for seven (7) years, subject to the following conditions:

1. The applicant and/or the property owner (John M. Hubbard, Jr.) shall be the occupant of the manufactured home.
2. Manufactured home permit shall be granted for a period not to exceed seven (7) years from date of approval.
3. No lot or parcel may be rented or leased for use as a manufactured home site nor shall any manufactured home be used for rental property.
4. No additional permanent-type living space may be added onto a manufactured home. All manufactured homes shall be skirted but shall not be placed on a permanent foundation.
5. A minimum twenty (20) foot buffer shall be maintained around the property boundary. Except for access through this buffer, existing mature vegetation shall be preserved and maintained, unless removal is approved by the Planning Department. This condition shall not be applicable to the removal of dead or diseased trees.

Ayes: Warren, McHale, Barber, Humphrey and Miller.

Nays: None.

04SR0167

In Midlothian Magisterial District, IRVING F. DRAPER requests renewal of Manufactured Home Permit 97SR0124 to park a manufactured home in a Residential (R-7) District. The density of this proposal is approximately 1.67 units per acre. The Comprehensive Plan suggests the property is appropriate for residential use. This property is known as 1410 Railroad Avenue. Tax ID 727-710-3162 (Sheet 5).

Mr. Jacobson presented a summary of Case 04SR0167 and stated staff recommends approval for seven (7) years subject to conditions.

Mr. Irving Draper stated the recommendation is acceptable.

Mr. Warren called for public comment.

Ms. Alice Miller stated she supports the request, but expressed concerns relative to the sign referring to rezoning of the property.

Mr. Jacobson stated the zoning signs are used for mobile home applications as well as rezonings. He further stated approval of the request will allow the mobile home to remain on the property another seven years, but does not affect any other zoning of the area.

There being no one else to speak to the request, the public hearing was closed.

On motion of Mr. Barber, seconded by Mr. McHale, the Board approved Case 04SR0167 for seven (7) years, subject to the following conditions:

1. The applicant shall be the owner and occupant of the manufactured home.
2. Manufactured home permit shall be granted for a period not to exceed seven (7) years from date of approval.
3. No lot or parcel may be rented or leased for use as a manufactured home site nor shall any manufactured home be used for rental property.
4. No additional permanent-type living space may be added onto a manufactured home. All manufactured homes shall be skirted but shall not be placed on a permanent foundation.

Ayes: Warren, McHale, Barber, Humphrey and Miller.

Nays: None.

17. PUBLIC HEARINGS

O TO CONSIDER THE APPROPRIATION OF FUNDS RECEIVED FROM THE DEPARTMENT OF MEDICAL ASSISTANCE SERVICES AND AUTHORIZATION TO EXECUTE RELATED DOCUMENTS

Mr. Hammer stated this date and time has been advertised for a public hearing to consider the appropriation of funds received from the Department of Medical Assistance Services and authorization to execute related documents.

Mr. Warren called for public comment.

No one came forward to speak to the issue.

On motion of Mr. McHale, seconded by Mr. Barber, the Board approved the appropriation of funds, not to exceed \$12,000,000, from the Department of Medical Assistance Services, and authorized the County Administrator to execute the documents and complete the transaction.

Ayes: Warren, McHale, Barber, Humphrey and Miller.

Nays: None.

18. REMAINING MOBILE HOME PERMITS AND ZONING REQUESTS

02SN0259 (Amended) and 04SN0116

In Matoaca Magisterial District, SWIFT CREEK PARTNERS, LLC request rezoning and amendment of zoning district map from Agricultural (A) to Residential (R-12) on 234.7 acres with Conditional Use to allow private recreational facilities on 9.0 acres of the 234.7 acres. Residential use of up to 3.63 units per acre is permitted in a Residential (R-12) District. The Comprehensive Plan suggests the property is appropriate for single family residential use of 2.0 units per acre or less. This request fronts approximately 1,600 feet on the north line of Otterdale Road, approximately 2,100 feet east of Woolridge Road and located at the western terminus of Fox Club Parkway. Tax IDs 712-672-Part of 4372, 713-673-Part of 4247 and 713-675-1759 (Sheet 15).

In Matoaca Magisterial District, SWIFT CREEK PARTNERS, LLC requests rezoning and amendment of zoning district map from Agricultural (A) to Residential (R-12) with Conditional Use to permit recreational facilities. Residential use of up to 3.63 units per acre is permitted in a Residential (R-12) District. The Comprehensive Plan suggests the property is appropriate for single 6family residential use of 2.0 units per acre or less. This request lies on 18.7 acres fronting approximately 825 feet on the south line of Woolridge Road, approximately 1,600 feet west of Fox Club Road. Tax ID 712-676-4582 (Sheet 15).

Mr. Jacobson presented summaries of Cases 02SN0259 and 04SN0116 and stated staff has received additional proffered conditions which provide for an additional 25-foot tree preservation area and provide for a residential collector road from Otterdale Road to Woolridge Road. He reviewed the additional proffered condition relating to water quality. He stated the Planning Commission and staff recommended approval of both requests and acceptance of the proffered conditions, indicating that the requests conform to the Upper Swift Creek Plan as well as address the need for capital facilities.

Discussion ensued relative to the time difference between the initial permit for the BMPs and actual construction of the BMPs.

Mr. McElfish stated a combination of sediment control devices will be used that will best achieve the 0.22 pounds per acre per year phosphorous runoff limit. He further stated Environmental Engineering staff will review all plans and inspect the devices.

Mr. Jack Wilson, representing the applicant, stated the applicant has addressed all issues raised by the Foxcroft neighborhood by providing for reduced density and larger lot sizes; an upscale amenities package; a minimum home space requirement of 2,500 square feet; all exposed foundations to be covered; all subdivision roads constructed with concrete curb and gutter; and restrictive covenants governed by a homeowners' association to ensure sustained quality of the development. He stated the applicant has also provided an additional 25-foot tree preservation strip and a collector road from Otterdale Road to Woolridge Road.

Discussion ensued relative to the proposed stub road into the Foxcroft neighborhood.

Mr. Wilson stated the applicant would prefer not to have the stub road, and the Foxcroft residents do not want it. He further stated the applicant would agree to withdrawing the proffered condition relative to the stub road, or have the Board delete it. He stated he does not feel the proposed development will significantly impact school overcrowding since the School Board is aggressively addressing this issue, indicating that the cash proffers will generate approximately \$1.25 million for county schools. He further stated transportation issues are being addressed by providing for improvements on Woolridge and Otterdale Roads; dedicating adjacent land for future improvements on both of these roads; constructing a residential collector road through the proposed development; and providing \$1 million for additional transportation needs, such as improvements on Route 360. He stated the applicant has agreed that initial access will be via Woolridge Road to minimize the transportation impact. He further stated the applicant is sensitive to the delay in the approval process of the Regional BMP Plan, indicating that the applicant has agreed to meet the current 0.22 pounds per acre per year phosphorous runoff limit until such time as the plan has been approved. He stated there are two environmentally sensitive areas on the property, and the applicant has provided for protection of these areas in the development process to ensure protection of the reservoir. He further stated the applicant has addressed all legitimate concerns of the Foxcroft community; the Planning Commission and staff recommend approval; and, other than general concerns regarding growth in the county, there are no issues remaining. He requested the Board's approval of the proposed development.

Mr. Warren called for public comment.

Mr. David Bailey, attorney representing the adjacent homeowners in Foxcroft Subdivision, stated the residents feel the proffered conditions will satisfy their immediate needs and they support the proposed project, contingent upon deletion of the proffered condition relative to a stub road into Foxcroft. He further stated the proffered conditions relating to water quality are an excellent example for use by future developments.

Mr. Frank Jovanello, a new resident in Hampton Park, expressed concerns relative to the additional traffic that will be generated by the proposed development.

Ms. Mandy Wilson, a resident of Hampton Park and member of the Upper Swift Creek Task Force for Responsible Growth, stated that business growth fosters diversity, new opportunities and economic development, but she cannot support additional residential growth in the vicinity of the proposed development because the infrastructure is not in place to support it. She expressed concerns relative to increased accidents on Otterdale Road and the need to widen Woolridge and Hull Street Roads, and stated the proposed development will result in an additional 3,638 trips every day. She commended the county for its proactive response in addressing school overcrowding, but expressed concerns that nothing is being done to address elementary school

overcrowding. She stated she feels new development cases should be denied until sufficient measures have been put into place to protect the reservoir. She expressed concerns relative to uncontrolled growth and requested that the Board deny the request.

Mr. Barber stated the Board has requested on several occasions that the General Assembly provide the county with adequate public facilities authority to require provision of infrastructure prior to development. He suggested that Ms. Wilson contact members of the county's legislative delegation regarding growth related concerns.

Mr. Frank McDavid, President of the Southshore Property Owners Association and member of the Upper Swift Creek Task Force for Responsible Growth, expressed concerns that only 5.94 square miles of the county has been set aside as green space, 4.68 square miles for public parks designated as green space, and 1.26 square miles as woodlands, wetlands and marshes, and indicated that 98.7 percent of the property in the county is not protected. He requested that the Board require the Planning Commission to undertake a more balanced interpretation of the Comprehensive Plan as it reviews future applications for Agricultural rezoning. He stated the task force feels the use of build out projections distract from the immediate reality of the county's overstressed infrastructure, and it would be helpful to know that issues impacting the quality of life in the county are under control today. He further stated the task force is requesting that infrastructure issues be balanced immediately between the county's short and long-term solutions. He stated the Upper Swift Creek Task Force will work with the Board to understand the issues, their causes, and to actively support fresh solutions.

Mr. Tom Pakurar expressed concerns that the cash proffer will not adequately address the infrastructure necessary to support the proposed development. He stated he feels a financial plan to fund the necessary infrastructure should be developed before additional growth occurs, indicating it would be wise to delay the project until such a plan has been developed. He requested the Board's leadership in solving the neighborhood's growth issues.

Ms. Marlene Durfee, a Foxcroft resident and co-chair of the Upper Swift Creek Task Force for Responsible Growth, expressed concerns relative to lack of road infrastructure complicated by lack of state funding, and stated the current cash proffer policy does not adequately address transportation costs. She stated county schools are severely overcrowded at all levels, and the most powerful force in complicating this issue is continued approval of residential development. She further stated the county's transportation system is overburdened by growth, and noted that updated plans are critical for growth and development. She stated there is no quick fix for the problems that took years to grow, and she feels the Board must make changes and decisions for the good of all citizens.

Ms. Kathy Kirk, a FoxFire resident and member of the Upper Swift Creek Task Force for Responsible Growth, requested that the Board consider alleviating the strain that has already been put on the roads, schools and environment before adding

one more home to the burden the taxpayers are already facing. She presented the Board with approximately 1,400 signatures of citizens in opposition to the case. She expressed concerns that the number of housing units built over the past 11 years in the Matoaca District has grown 66 percent compared with an average of 20 percent in the other four districts of the county, indicating that the county's growth policies are inadequate. She implored the Board to use all means available under the law to resolve the case in such a way that directs the future of the area toward coping with problems of congested roadways, overcrowded schools and a threatened environment. She stated the task force is actively working to promote legislation for level of service standards to address responsible growth issues and to gain permission for the county to accept impact fees volunteered by developers of properties rezoned before the cash proffer system was in place. She further stated the proposed development will have a significant impact on infrastructure in the area, and urged the Board to deny the request.

Mr. David Webb, a FoxFire resident, stated he feels growth begets growth, and infrastructure never catches up. He expressed concerns that Chesterfield is in danger of repeating the same mistakes made by Fairfax County. He stated citizens will become dissatisfied with the quality of life as a result of unmanaged growth and will leave the county. He further stated cash proffers do as much as possible under the current plan. He urged the Board to update the Upper Swift Creek Plan before approving additional residential rezoning and to deny, or at least defer, the request until the cumulative impact of the additional 12,000 lots already approved and the additional 6,000 lots pending approval in the Upper Swift Creek area has been studied.

Ms. Diana Parker, representing the Sierra Club, provided the Board with a study indicating that Chesterfield County's population has tripled since 1970. She stated it is imperative that the Board take steps where possible to slow growth until adequate facilities are available; follow the Plan; and protect the watershed. She expressed concerns that adding 387 homes will increase the need for extension of roads that significantly impact creeks in the Swift Creek Watershed.

Mr. Preston Cooper, representing Hands Across the Lake, expressed concerns relative to protection of environmentally sensitive areas on the subject property. He provided an aerial photograph depicting sedimentation that occurs with development and stated, if the property is developed, a permanent BMP should be located on the property to provide additional protection of the reservoir; any mitigation should be done within the watershed; and soil should be retained using new technology. He recommended that the Board deny the request until it is consistent with environmental requirements.

Mr. James Adams, representing the Birkdale Community Association, expressed concerns relative to the proposed development contributing to traffic congestion, school overcrowding and water quality threats. He urged the Board to deny the request.

Mr. David Robinson, Soil and Water Conservation District Director-elect, requested that the Board not approve any rezoning requests until the amendments to the erosion and sediment control ordinance have been adopted and the regional BMP plan has been approved. He expressed concerns relative to the quality of life in the county due to lack of infrastructure, and urged the Board to take a stand and not overburden our infrastructure further. He provided details of two letters from Senator Watkins to Attorney General Jerry Kilgore - 1) requesting a legal opinion relative to the necessity of statutory authority for a local governing body to legally deny a zoning requested based on inadequate public facilities; and 2) referring to an opinion provided to the City of Chesapeake which appears to empower localities to require adequate public facilities zoning prior to rezoning or development of property by use of the local comprehensive plan. He requested that the Board defer a decision on this request until Senator Watkins receives an answer to his request for a legal opinion, and that the Board be a leader in the state and say "no" to the proposed development.

Dr. Betty Hunter-Clapp expressed concerns relative to the amount of growth the county's water supply can sustain, and stated she does not feel the Board should approve this project until this question can be answered. She stated the task force has done an admirable job, and requested that the Board listen to the members of the task force and deny the request.

Mr. John Hughes, representing the Brandermill Community Association, expressed concerns that the property drains directly into the reservoir with no proposed downstream Regional BMP and therefore, feels the applicant should be required to build their own BMP facility. He also suggested that the Board revise the water quality ordinance relative to the 0.22 pounds per acre per year phosphorous runoff limit.

There being no one else to speak to the request, the public hearing was closed.

Mr. Warren requested a five-minute recess.

Reconvening:

Mr. Jack Wilson stated the project complies with the Upper Swift Creek Plan and will generate over \$3 million in cash proffers from the development of 387 lots. He further stated the developer has agreed to construct a \$1 million road that is on the county's Thoroughfare Plan and will also provide valuable land for improvements on Woolridge and Otterdale Roads. He stated the real estate taxes generated by the proposed development will actually provide surplus tax revenue to the county rather than draining its coffers. He further stated the developer will be required to adhere to the erosion and sediment control ordinance in effect at the time the subdivision and engineering plans are presented; therefore, there is no need to delay the case until the ordinance has been amended. He stated the applicant has adequately addressed environmental issues through a proffered condition to deal with the phosphorous load run off, and requested that the Board approve the proposed development.

When asked, Mr. McCracken stated he anticipates the county will take over administration of construction of the Hull Street Road widening project from the Virginia Department of Transportation.

Discussion ensued relative to the proposed arterial road and other road improvements the developer has agreed to provide.

Mr. McCracken stated staff's concerns have been met by the developer providing a connection to Woolridge Road and traffic accessing as far east on Woolridge as possible.

Ms. Joan Salvati, Water Quality Administrator, came forward to answer questions relative to in-lake sedimentation as a result of land disturbance from the proposed project. She stated the proffered condition allows staff to provide more than adequate erosion and sediment control measures. She further stated the amended erosion and sediment control ordinance will ensure that the proposed project maintains the majority of its sediment on-site. She stated the proffered condition also ensures that between the time the construction of the project occurs and the regional BMP facilities are installed, a post-development phosphorous load will not exceed 0.22 pounds per acre per year. She noted that the proposed regional BMPs will ensure that in-lake phosphorous will not exceed the Board's mandate of 0.05 milligrams per liter.

Mrs. Humphrey stated she feels it would be prudent to enact an ordinance requiring construction site BMPs until the regional BMP plan is in place.

Ms. Salvati stated the amended erosion and sediment control ordinance will require that sediment basins be maintained until such time as regional BMPs are constructed.

Discussion ensued relative to phosphorous levels in the Swift Creek Reservoir.

Mr. Warren inquired whether the Board has the authority to require a developer to phase in growth over a certain period of time.

Mr. Micas stated developers can agree through proffered conditions to phase in their development. He further stated the Board could also require phasing of growth in certain areas through the county's Comprehensive Plan.

When asked, Mr. Micas stated the Board has the authority to defer the case for 12 months, which will expire in February 2004.

Mr. Jacobson stated the revised Upper Swift Creek Plan will not be completed by February 2004.

Mr. Barber stated he had hoped the Board would have a differentiated cash proffer policy by this time, and it appears this tool will also not be available by February 2004; therefore, the request must be considered with the tools currently available to the Board.

Discussion ensued relative to adequate public facilities legislation.

Mr. Micas stated adequate public facilities legislation that exists in Maryland and Florida generally deals with existing deficits in public facilities before the application comes to the governing body. He further stated, in Virginia, cash proffers, construction proffers and land dedications are designed to deal with the impacts created by proposed developments. He stated the City of Chesapeake and Loudon County have comprehensive plans that deal with phasing of growth to meet the adequacy of public facilities.

Mrs. Humphrey stated she feels the General Assembly should hold a public hearing regarding adequate public facilities legislation. She further stated she will assist the task force in meeting with the county's legislative delegation to discuss citizens' needs as we deal with growth. She stated the Foxcroft residents have requested that the Board delete the proffered condition relative to the connector road into Foxcroft and accept the developer's amended proffered condition to provide a connection to Woolridge Road.

Mrs. Humphrey made a motion, seconded by Mr. McHale, for the Board to suspend its rules to accept the amended proffered conditions for Cases 02SN0259 and 04SN0116.

Mr. Wilson summarized the amended proffered conditions for both cases.

Mr. Warren called for a vote on the motion of Mrs. Humphrey, seconded by Mr. McHale, for the Board to suspend its rules to accept the amended proffered conditions for Cases 02SN0259 and 04SN0116.

Ayes: Warren, McHale, Barber, Humphrey and Miller.
Nays: None.

Mrs. Humphrey then made a motion, seconded by Mr. Miller, for the Board to delete Proffered Condition 4.b. relative to the Fox Club Parkway connector; delete Proffered Conditions 20 and 21 relative to the connector road; approve Case 02SN0259 and accept the remaining proffered conditions, as amended.

Mr. Barber expressed concerns relative to Ms. Kathy Kirk's comments regarding the growth rate of the Matoaca District compared with the other districts in the county. He stated the Board is legally required to approve zoning cases that comply with the county's Comprehensive Plan, indicating he will reluctantly support the proposed development.

Mr. Miller stated he feels the Board must approve the proposed development because it complies with the Upper Swift Creek Plan and both the Planning Commission and staff recommend approval. He further stated he feels the Board needs to revise the Comprehensive Plan and provide itself with additional tools to review zoning cases. He stated he will support the proposed development.

Mr. McHale stated there are many areas in the county that are challenged with inadequate public facilities and indicated if he were free to do so, he would vote to put a stop to growth. He further stated, as elected officials, Board members are

obliged to obey the law when making decisions. He stated he is frustrated that the Board has been unable to receive support from the General Assembly relative to adequate public facilities legislation. He further stated it is clear that the Board has no choice but to approve the case as it is currently crafted, and urged the residents to express their concerns to the county's legislative delegation.

Mr. Warren then called for a vote on the motion of Mrs. Humphrey, seconded by Mr. Miller, for the Board to delete Proffered Condition 4.b. relative to the Fox Club Parkway connector; delete Proffered Conditions 20 and 21 relative to the connector road; approve Case 02SN0259 and accept the following remaining proffered conditions:

1. A maximum of 379 lots shall be permitted. (P)
2. The public water and wastewater systems shall be used. (U)
3. With the exception of timbering which has been approved by the Virginia State Department of Forestry for the purpose of removing dead or diseased trees, there shall be no timbering until a land disturbance permit has been obtained from the Environmental Engineering Department and the approved devices have been installed. (EE)
4. In conjunction with recordation of the initial subdivision plat, a sixty (60) foot wide right-of-way for a residential collector street shall be dedicated, free and unrestricted, to and for the benefit of Chesterfield County (the "Residential Collector Street"). The exact location of this right-of-way shall be approved by the Transportation Department. The right-of-way for the Residential Collector Street shall be as follows:
 - a. from Otterdale Road to the northern property line adjacent to Property Identified as Tax ID 71267645820000. (T)
 - b. Staff Note: Not accepted.
5. In conjunction with recordation of the initial subdivision plat, forty-five (45) feet of right-of-way on the east side of Otterdale Road, measured from the centerline of that part of Otterdale Road immediately adjacent to the property, shall be dedicated, free and unrestricted, to and for the benefit of Chesterfield County. (T)
6. Direct access from the property to Otterdale Road shall be limited to one (1) public road. The exact location of this access shall be approved by the Transportation Department. (T)
7. To provide an adequate roadway system at the time of complete development, the owner/developer shall be responsible for the following:
 - a. Construction of additional pavement along Otterdale Road at the public road intersection to provide left and right turn lanes, based on Transportation Department standards;

- b. Construction of two (2) lanes of the Residential Collector Street as described in Proffered Condition 4;
 - c. Construction of a three (3) lane typical section (i.e., one (1) eastbound lane and two (2) westbound lanes) for the public road at its intersection with Otterdale Road. The exact length of this improvement shall be approved by the Transportation Department; and
 - d. Dedication to Chesterfield County, free and unrestricted, of any additional right-of-way (or easements) required for the improvements identified above. Provided, however, in the event the developer is unable to acquire any "off-site" right-of-way that is necessary for any improvement described in 7(a), the developer may request, in writing, that the County acquire such right-of-way as a public road improvement. All costs associated with the acquisition of the right of way shall be borne by the developer. In the event the County chooses not to assist the developer in acquisition of the "off-site" right of way, the developer shall be relieved of the obligation to acquire the "off-site" right-of-way and only be required to provide required road improvements within available right-of-way as determined by the Transportation Department. (T)
8. Prior to any construction plan, a phasing plan for the required road improvements, as identified in Proffered Condition 7, shall be submitted to and approved by the Transportation Department. (T)
9. The exposed surfaces of the foundations of each dwelling shall be covered with brick or stone veneer or exterior insulation and finishing systems (EIFS) materials. (P)
10. All dwellings shall have a minimum gross floor area of 2,500 square feet. (P)
11. A fifty (50) foot buffer required in accordance with the Subdivision Ordinance along Otterdale Road shall be located within recorded open space. A thirty-five (35) foot buffer required in accordance with the Subdivision Ordinance along the Residential Collector Street shall be located within recorded open space. (P)
12. The applicant, subdivider, or assignee(s) shall pay the following to the County of Chesterfield prior to the issuance of each building permit for infrastructure improvements within the service district for the property;
- a. \$7,800 per lot, if paid prior to July 1, 2002; or
 - b. The amount approved by the Board of Supervisors not to exceed \$7800.00 per lot adjusted upward by any increase in the Marshall and Swift building cost index between July 1, 2001, and July 1 of the fiscal year in which the payment is made if paid after June 30, 2002; and
 - c. In the event the cash payment is not used for the purpose for which proffered within 15 years of receipt, the cash shall be returned in full to the

payor. (B&M)

13. All lots shall have a minimum area of 15,000 square feet. (P)
14. To the extent permitted by the Transportation Department and VDOT, in conjunction with the construction of the internal road network, three (3) traffic islands/circles shall be provided. The exact design and location of these traffic islands/circles shall be approved by the Transportation Department. (T)
15. Recreational Facilities. Any recreational facilities shall be subject to the following restrictions:
 - a) There shall be no outside public address systems or speakers.
 - b) With the exception of playground areas which accommodate swings, jungle gyms, or similar such facilities, all outdoor play fields, courts, swimming pools and similar active recreational areas shall be located a minimum of one hundred (100) feet from any proposed or existing single family residential lot line and a minimum of fifty (50) feet from any existing or proposed public road.
 - c) Within the one hundred (100) foot and fifty (50) foot setbacks, a fifty (50) foot buffer shall be provided along the perimeter of all active recreational facilities except where adjacent to any existing or proposed roads. This buffer shall conform to the requirements of the Zoning Ordinance for fifty (50) foot buffers.
 - d) Any playground areas (i.e., areas accommodating swings, jungle gyms or similar such facilities) shall be located a minimum of forty (40) feet from all property lines. A forty (40) foot buffer shall be provided along the perimeter of these recreational facilities except where adjacent to any existing or proposed roads. This buffer shall conform to the requirements of the Zoning Ordinance for fifty (50) foot buffers.
 - e) Nothing herein shall prevent development of indoor facilities and/or parking within the one hundred (100) foot setback.
 - f) Exterior lighting for recreational uses shall comply with Section 19-573 of the Zoning Ordinance, and the maximum height for light posts shall not exceed twenty (20) feet.
 - g) The location of all active recreational uses shall be identified in conjunction with the submittal of the first tentative subdivision plan.
 - h) In conjunction with the recordation of any lot adjacent to active recreational area(s), such area(s) shall be identified on the record plat along with the proposed recreational uses and required conditions. (P)
16. A minimum of fifty (50) feet of common open space shall be maintained adjacent to Foxcroft Subdivision. Except for utilities, pedestrian/bicycle paths and roads which run generally perpendicular through the buffer, there shall be no uses permitted in the buffer. Except where

necessary to provide the uses stated herein, any healthy trees that are six (6) inches or greater in caliper shall be retained unless removal is approved through the subdivision process. (P)

17. The developer shall notify the last known representative of the Foxcroft Homeowners Association on file with the Planning Department of the submission of tentative subdivision plans. Such notice shall occur at least twenty-one (21) days prior to the approval of such plans. The developer shall provide the Planning Department with a copy of the notice. (P)
18. Construction traffic for development of the subdivision shall be prohibited on Fox Club Parkway through Foxcroft Subdivision. (P)

(NOTE: This does not preclude construction traffic necessary to install utilities within, or build, Fox Club Parkway within Foxcroft Subdivision.)

19. Public subdivision roads, except for the Residential Collector Street, shall be constructed with concrete curb and gutter. (EE)
20. Staff Note: Not accepted.
21. Staff Note: Not accepted.
22. At a minimum, the following restrictive covenants shall be recorded for the development:

Architectural Board

The Architectural Board shall have exclusive jurisdiction over all original construction, modifications, additions or alterations made on or to all existing improvements, and the open space, if any, appurtenant thereto on all property. It shall prepare and, on behalf of the Board of Directors, shall promulgate design and development guidelines and application and review procedures, all as part of the design and environmental standards. The standards shall incorporate all restrictions and guidelines relating to development and construction contained in this Declaration as well as restrictions and guidelines with respect to location of structures upon property, size of structures, driveway and parking requirements, foundations and length of structures, and landscaping requirements. Copies shall be available from the Architectural Board for review. The guidelines and procedures shall be those of the Association, and the Architectural Board shall have sole and full authority to prepare and to amend the standards available to Owners, builders, and developers who seek to engage in development of or construction upon property within their operations strictly in accordance therewith. The Architectural Board shall initially consist of three (3) members, all appointed by the Declarant. At such times as fifty percent (50%) of all property within subject property has been developed, improved, and conveyed to purchasers in the normal course of development and sale, the Board of Directors of the Association shall have the

right to appoint a maximum of two (2) additional members. At no time shall the Architectural Board have fewer than three members nor more than five (5) members. At such time as one hundred percent (100%) of all property has been developed, improved, and conveyed to purchasers in the normal course of development and sale, the Board of Directors shall appoint all members of the Architectural Board. The declarant may, at his option, delegate to the Board of Directors its right to appoint one or more members of the Architectural Board. At all times, at least one (1) member of the Architectural Board shall be a member of the Association, and at least one (1) member shall be an architect licensed to practice in the State of Virginia, who shall also be the Chairperson.

Mailboxes

Every improved lot shall be required to have a mailbox with supporting post and street light of design and installation as specified in the standards. Each lot owner shall be responsible for the maintenance and operation of the fixture, support, and mailbox.

Parking

Each property owner shall provide space for the parking of automobiles off public streets prior to the occupancy of any building or structure constructed on said property in accordance with the standards.

Garages

All dwellings will have side or rear loaded garages.

Signs

No signs shall be erected or maintained on any property by anyone including, but not limited to, the owner, a realtor, a contractor, or a subcontractor, except as provided for in the standards or except as may be required by legal proceedings. Residential property identification and like signs not exceeding a combined total of more than one (1) square foot may be erected without the written permission of the Declarant or the Association.

Condition of Ground

It shall be the responsibility of each property owner and tenant to prevent the development of any unclean, unsightly, or unkempt conditions of buildings or grounds on such property which shall tend to substantially decrease the beauty of the neighborhood as a whole or the specific area.

Minimum Square Footage

No plan required under these Covenants will be approved unless the proposed house or structure has a minimum square footage of enclosed dwelling space as specified in the standards. Such minimum requirement for each lot will be specified in each sales contract and stipulated

in each deed. The term "enclosed dwelling area" as used in these minimum size requirements does not include garages, terraces, decks, open porches, and the like areas.

Residential Use

- a) All lots shall be used for residential purposes exclusively. The use of a portion of a dwelling on a lot as an office by the owner or tenants thereof shall be considered a residential use if such use does not create customer or client traffic to and from the lot. No structure, except as herein after provided, shall be erected, altered, placed, or permitted to remain on any lot other than one (1) detached single family dwelling and one (1) accessory building which may include a detached private garage, provided the use of such accessory building does not overcrowd the site and provided further that such building is not used for any activity normally conducted as business. Such accessory building may not be constructed prior to the construction of the main building.
- b) A guest suite or like facility without a kitchen may be included as part of the main dwelling or accessory building, but such suite may not be rented or leased except as part of the entire premises including the main dwelling and provided, however, that such suite would not result in overcrowding of the site.
- c) The provisions of this paragraph shall not prohibit the Developer from using a house as a model as provided in this Declaration.

Exterior Structure Completion

The exterior of all house and other structures must be completed within one (1) year after the construction of same shall have commenced, except where such completion is impossible or would result in great hardship to the owner or builder due to the strikes, fires, national emergency, or natural calamities. Houses and other dwelling structures may not be temporarily or permanently occupied until the exteriors thereof have been completed. During the continuance of construction the owner of the lot shall require the contractor to maintain the lot in a reasonably clean and uncluttered condition.

Screened Areas

Each lot owner shall provide a screened area to serve as a service yard and an area in which garbage receptacles, fuel tanks or similar storage receptacles, electric and gas meters, air conditioning equipment, clotheslines, and other unsightly objects much be placed or stored in order to conceal them from view from the road and adjacent properties. Plans for such screened area delineating the size, design, texture, appearance, and location must be approved by the Architectural Board prior to construction. Garbage receptacles and fuel tanks may be located outside of such screened area only if located underground.

Vehicle Storage

No mobile home, trailer, tent, barn, or other similar out-building or structure shall be placed on any lot at any time, either temporarily or permanently. Boats, boat trailers, campers, recreational vehicles, or utility trailers may be maintained on a lot, but only when in an enclosed or screened area approved by the Architectural Board such that they are not generally visible from adjacent properties.

Temporary Structures

No structure of a temporary character shall be placed upon any lot at any time provided, however, that this prohibition shall not apply to shelter or temporary structures used by the contractor during the construction of the main dwelling house, it being clearly understood that these latter temporary shelters may not at any time be used as residences or permitted to remain on the lot after completion of construction,. The design and color of structures temporarily placed on the lot by a contractor shall be subject to reasonable aesthetic control by the Architectural Board.

Antennas

No television antenna, radio receiver or sender, or other similar device shall be attached to or installed on the exterior portion of any building or structure or any lot except that should cable television services be unavailable and good television reception not be otherwise available, a lot owner may make written application to the Association for permission to install a television antenna and such permission shall not be unreasonably withheld.

Further Subdivision

No lot shall be subdivided or its boundary lines changed, nor shall applications for same be made to Chesterfield County, except with the written consent of the Declarant. However, the Declarant hereby expressly reserves to itself, its successors, or assigns the right to replat any lot or lots owned by it and shown on the plat of any subdivision in order to create modified building lot or replatted lot suitable and fit as a building site including, but no limited to, the recreational facilities, and other amenities to conform to the new boundaries of said replatted lots, provided that no lot originally shown on a recorded plat is reduced to a size smaller than the smallest lot shown on the first plat of the paragraph shall not prohibit the combining of two (2) or more continuous lots into one (1) larger lot, only the exterior boundary lines of the resulting larger lot shall be considered in the interpretation of these covenants.

Animals

Only common household pet animals shall be permitted. All pet animals must be secured by a leash or lead, or

be under the control of a responsible person and obedient to that person's command at any time they are permitted outside a residence or other enclosed area upon a lot approved by the Architectural Board for the maintenance and confinement of pet animals. No livestock including cattle, horses, sheep, goats, pigs, or poultry shall be permitted upon any lot. After giving a lot owner written notice of complaint and reasonable opportunity to remedy the situation, the Board of Directors may order the removal of any pet which has been a nuisance or a danger.

Section 14 - Motor Bikes All Terrain Vehicles

No motor bikes, motorcycles, or all terrain vehicles shall be driven upon the common area, lots, or roads (unless properly licensed on roads) with the exception of licensed vehicles and mopeds which shall be operated solely upon the public streets for direct ingress and egress purposes only.

External Lighting

No external lighting shall be installed or utilized on any property which is of such character, intensity, or location as to interfere with the use, enjoyment, and privacy of any lot or owner in the near vicinity. No neon or flashing lights shall be permitted. All external lighting shall be approved by the Architectural Board as appropriate in size, location, color, and intensity.

Swimming Pools

No swimming pool, whether in ground or above ground, whether permanent or temporary, shall be installed upon any lot without the prior written consent of the Architectural Board. The Architectural Board shall require that all swimming pools be adequately screened.

Rules and Regulations.

The Board of Directors is granted and shall have the power to promulgate rules and regulations, from time to time, governing the use of and activity upon the Common Area and the Recreational Facilities (if the Recreational Facilities are owned or leased by the Association). All rules and regulations promulgated by the Board of Directors shall be published and distributed to each member of the Association at least thirty (30) days prior to their effective date. (P)

23. All dwellings will have side or rear loaded garages. (P)
24. Initial access for development of the property shall be provided through the adjacent parcel to the North (Tax ID 712676458200000) to Woolridge Road. (T)
25. A twenty-five (25) foot tree preservation strip within the proposed lots shall be maintained along the eastern boundary of the common open space described in Proffered Condition 16. This shall not include a tree

preservation strip along the northern boundary of the common open space described in Proffered Condition 16. Utility easements and right-of-ways shall be permitted to cross this strip in a perpendicular fashion. Any healthy trees that are six (6) inches in caliper or greater shall be retained within this tree preservation strip except where removal is necessary to accommodate the improvements permitted by the preceding sentence. This condition shall not preclude the removal of vegetation from the tree preservation strip that is unhealthy, dying or diseased. (P)

26. The developer shall leave in place temporary sediment control devices and/or construct new BMP's or combinations of BMP's which would achieve a maximum phosphorous runoff limit of 0.22 pounds per acre per year until Chesterfield County obtains its initial permit for the implementation of the Upper Swift Creek Watershed Plan. (EE)

Ayes: McHale, Barber, Humphrey and Miller.

Nays: Warren.

On motion of Mrs. Humphrey, seconded by Mr. Miller, the Board approved Case 04SN0116 and accepted the following proffered conditions:

1. A maximum of 8 lots shall be permitted. (P)
2. The public water and wastewater systems shall be used. (U)
3. With the exception of timbering which has been approved by the Virginia State Department of Forestry for the purpose of removing dead or diseased trees, there shall be no timbering until a land disturbance permit has been obtained from the Environmental Engineering Department and the approved devices have been installed. (EE)
4. In conjunction with recordation of the initial subdivision plat, forty-five (45) feet of right-of-way on the south side of Woolridge Road, measured from the centerline of that part of Woolridge Road immediately adjacent to the property, shall be dedicated, free and unrestricted, to and for the benefit of Chesterfield County. (T)
5. Direct access from the property to Woolridge Road shall be limited to one (1) public road. The exact location of this access shall be approved by the Transportation Department. (T)
6. To provide an adequate roadway system at the time of complete development, the owner/developer shall be responsible for the following:
 - a. Construction of additional pavement along Woolridge Road at the public road intersection to provide left and right turn lanes, based on Transportation Department standards;
 - b. Construction of a three (3) lane typical section (i.e., one (1) southbound lane and two (2)

northbound lanes) for the public road at its intersection with Woolridge Road. The exact length of this improvement shall be approved by the Transportation Department;

- c. Construction of two (2) lanes of the public road as a residential collector street from Woolridge Road to the southern property line;
 - d. Widening/improving the south side of Woolridge Road to an eleven (11) foot wide travel lane, measured from the centerline of the road, with an additional one (1) foot wide paved shoulder plus a seven (7) foot wide unpaved shoulder, with modifications approved by the Transportation Department, for the entire property frontage; and
 - e. Dedication to Chesterfield County, free and unrestricted, of any additional right-of-way (or easements) required for the improvements identified above. Provided, however, in the event the developer is unable to acquire any "off-site" right-of-way that is necessary for any improvement described in 6.a., the developer may request, in writing, that the County acquire such right-of-way as a public road improvement. All costs associated with the acquisition of the right of way shall be borne by the developer. In the event the County chooses not to assist the developer in acquisition of the "off-site" right-of-way, the developer shall be relieved of the obligation to acquire the "off-site" right-of-way and only be required to provide required road improvements within available right-of-way as determined by the Transportation Department. (T)
- 7. Prior to any construction plan approval, a phasing plan for the required road improvements, as identified in Proffered Condition 6, shall be submitted to and approved by the Transportation Department. (T)
 - 8. The exposed surfaces of the foundations of each dwelling shall be covered with brick or stone veneer or exterior insulation and finishing systems (EIFS) materials. (P)
 - 9. All dwellings shall have a minimum gross floor area of 2,500 square feet. (P)
 - 10. A fifty (50) foot buffer required in accordance with the Subdivision Ordinance along Woolridge Road shall be located within recorded open space. (P)
 - 11. The applicant, subdivider, or assignee(s) shall pay the following to the County of Chesterfield prior to the issuance of each building permit(s) for infrastructure improvements within the service district for the property:
 - a. \$9,000 per lot, if paid prior to July 1, 2003; or
 - b. The amount approved by the Board of Supervisors not to exceed \$9,000 per lot adjusted upward by any increase in the Marshall and Swift building cost

index between July 1, 2002 and July 1 of the fiscal year in which the payment is made if paid after June 30, 2003; and

- c. In the event the cash payment is not used for the purposes for which proffered within 15 years of receipt, the cash shall be returned in full to the payor. (B&M)
12. All lots shall have a minimum area of 15,000 square feet. (P)
13. Recreational Facilities. Any recreational facilities shall be subject to the following restrictions:
- a. There shall be no outside public address systems or speakers.
 - b. With the exception of playground areas which accommodate swings, jungle gyms, or similar such facilities, all outdoor play fields, courts, swimming pools and similar active recreational areas shall be located a minimum of one hundred (100) feet from any proposed or existing single family residential lot line and a minimum of fifty (50) feet from any existing or proposed public road.
 - c. Within the one hundred (100) foot and fifty (50) foot setbacks, a fifty (50) foot buffer shall be provided along the perimeter of all active recreational facilities except where adjacent to any existing or proposed roads. This buffer shall conform to the requirements of the Zoning Ordinance for fifty (50) foot buffers.
 - d. Any playground areas (i.e., areas accommodating swings, jungle gyms or similar such facilities) shall be located a minimum of forty (40) feet from all property lines. A forty (40) foot buffer shall be provided along the perimeter of these recreational facilities except where adjacent to any existing or proposed roads. This buffer shall conform to the requirements of the Zoning Ordinance for fifty (50) foot buffers.
 - e. Nothing herein shall prevent development of indoor facilities and/or parking within the one hundred (100) foot setback.
 - f. Exterior lighting for recreational uses shall comply with Section 19-573 of the Zoning Ordinance, and the maximum height for light posts shall not exceed twenty (20) feet.
 - g. The location of all active recreational uses shall be identified in conjunction with the submittal of the first tentative subdivision plan.
 - h. In conjunction with the recordation of any lot adjacent to active recreational area(s), such area(s) shall be identified on the record plat

along with the proposed recreational uses and required conditions. (P)

14. The developer shall notify the last known representative of the Foxcroft Homeowners Association on file with the Planning Department of the submission of tentative subdivision plans. Such notice shall occur at least twenty-one (21) days prior to the approval of such plans. The developer shall provide the Planning Department with a copy of the notice. (P)
15. Public roads, other than the residential collector street, shall be constructed with concrete curb and gutter. (EE)
16. All dwellings will have side or rear loaded garages. (P)
17. At a minimum, the following restrictive covenants shall be recorded for the development:

Architectural Board - The Architectural Board shall have exclusive jurisdiction over all original construction, modifications, additions or alterations made on or to all existing improvements, and the open space, if any, appurtenant thereto on all property. It shall prepare and, on behalf of the Board of Directors, shall promulgate design and development guidelines and application and review procedures, all as part of the design and environmental standards. The standards shall incorporate all restrictions and guidelines relating to development and construction contained in this Declaration as well as restrictions and guidelines with respect to location of structures upon property, size of structures, driveway and parking requirements, foundations and length of structures, and landscaping requirements. Copies shall be available from the Architectural Board for review. The guidelines and procedures shall be those of the Association, and the Architectural Board shall have sole and full authority to prepare and to amend the standards available to Owners, builders, and developers who seek to engage in development of or construction upon property within their operations strictly in accordance therewith. The Architectural Board shall initially consist of three (3) members, all appointed by the Declarant. At such times as fifty percent (50%) of all property within subject property has been developed, improved, and conveyed to purchasers in the normal course of development and sale, the Board of Directors of the Association shall have the right to appoint a maximum of two (2) additional members. At no time shall the Architectural Board have fewer than three members nor more than five (5) members. At such time as one hundred percent (100%) of all property has been developed, improved, and conveyed to purchasers in the normal course of development and sale, the Board of Directors shall appoint all members of the Architectural Board. The declarant may, at his option, delegate to the Board of Directors its right to appoint one or more members of the Architectural Board. At all times, at least one (1) member of the Architectural Board shall be a member of the Association, and at least one (1) member shall be an architect licensed to

practice in the State of Virginia, who shall also be the Chairperson.

Mailboxes - Every improved lot shall be required to have a mailbox with supporting post and street light of design and installation as specified in the standards. Each lot owner shall be responsible for the maintenance and operation of the fixture, support, and mailbox.

Parking - Each property owner shall provide space for the parking of automobiles off public streets prior to the occupancy of any building or structure constructed on said property in accordance with the standards.

Signs - No signs shall be erected or maintained on any property by anyone including, but not limited to, the owner, a realtor, a contractor, or a subcontractor, except as provided for in the standards or except as may be required by legal proceedings. Residential property identification and like signs not exceeding a combined total of more than one (1) square foot may be erected without the written permission of the Declarant or the Association.

Condition of Ground - It shall be the responsibility of each property owner and tenant to prevent the development of any unclean, unsightly, or unkempt conditions of buildings or grounds on such property which shall tend to substantially decrease the beauty of the neighborhood as a whole or the specific area.

Minimum Square Footage - No plan required under these Covenants will be approved unless the proposed house or structure has a minimum square footage of enclosed dwelling space as specified in the standards. Such minimum requirement for each lot will be specified in each sales contract and stipulated in each deed. The term "enclosed dwelling area" as used in these minimum size requirements does not include garages, terraces, decks, open porches, and the like areas.

Residential Use -

- a. All lots shall be used for residential purposes exclusively. The use of a portion of a dwelling on a lot as an office by the owner or tenants thereof shall be considered a residential use if such use does not create customer or client traffic to and from the lot. No structure, except as herein after provided, shall be erected, altered, placed, or permitted to remain on any lot other than one (1) detached single family dwelling and one (1) accessory building which may include a detached private garage, provided the use of such accessory building does not overcrowd the side and provided further that such building is not used for any activity normally conducted as business. Such accessory building may not be constructed prior to the construction of the main building.
- b. A guest suite or like facility without a kitchen may be included as part of the main dwelling or accessory building, but such suite may not be

rented or leased except as part of the entire premises including the main dwelling and provided, however, that such suite would not result in overcrowding of the site.

- c. The provisions of this paragraph shall not prohibit the Developer from using a house as a model as provided in this Declaration.

Exterior Structure Completion - The exterior of all house and other structures must be completed within one (1) year after the construction of same shall have commenced, except where such completion is impossible or would result in great hardship to the owner or builder due to the strikes, fires, national emergency, or natural calamities. Houses and other dwelling structures may not be temporarily or permanently occupied until the exteriors thereof have been completed. During the continuance of construction the owner of the lot shall require the contractor to maintain the lot in a reasonably clean and uncluttered condition.

Screened Areas - Each lot owner shall provide a screened area to serve as a service yard and an area in which garbage receptacles, fuel tanks or similar storage receptacles, electric and gas meters, air conditioning equipment, clotheslines, and other unsightly objects much be placed or stored in order to conceal them from view from the road and adjacent properties. Plans for such screened area delineating the size, design, texture, appearance, and location must be approved by the Architectural Board prior to construction. Garbage receptacles and fuel tanks may be located outside of such screened area only if located underground.

Vehicle Storage - No mobile home, trailer, tent, barn, or other similar out-building or structure shall be placed on any lot at any time, either temporarily or permanently. Boats, boat trailers, campers, recreational vehicles, or utility trailers may be maintained on a lot, but only when in an enclosed or screened area approved by the Architectural Board such that they are not generally visible from adjacent properties.

Temporary Structures - No structure of a temporary character shall be placed upon any lot at any time provided, however, that this prohibition shall not apply to shelter or temporary structures used by the contractor during the construction of the main dwelling house, it being clearly understood that these latter temporary shelters may not at any time be used as residences or permitted to remain on the lot after completion of construction. The design and color of structures temporarily placed on the lot by a contractor shall be subject to reasonable aesthetic control by the Architectural Board.

Antennas - No television antenna, radio receiver or sender, or other similar device shall be attached to or installed on the exterior portion of any building or structure or any lot except that should cable television services be unavailable and good television reception

not be otherwise available, a lot owner may make written application to the Association for permission to install a television antenna and such permission shall not be unreasonably withheld.

Further Subdivision - No lot shall be subdivided or its boundary lines changed, nor shall applications for same be made to Chesterfield County, except with the written consent of the Declarant. However, the Declarant hereby expressly reserves to itself, its successors, or assigns the right to replat any lot or lots owned by it and shown on the plat of any subdivision in order to create a modified building lot or a replatted lot suitable and fit as a building site including, but not limited to, the recreational facilities, and other amenities to conform to the new boundaries of said replatted lots, provided that no lot originally shown on a recorded plat is reduced to a size smaller than the smallest lot shown on the first plat of the paragraph shall not prohibit the combining of two (2) or more continuous lots into one (1) larger lot, only the exterior boundary lines of the resulting larger lot shall be considered in the interpretation of these covenants.

Animals - Only common household pet animals shall be permitted. All pet animals must be secured by a leash or lead, or be under the control of a responsible person and obedient to that person's command at any time they are permitted outside a residence or other enclosed area upon a lot approved by the Architectural Board for the maintenance and confinement of pet animals. No livestock including cattle, horses, sheep, goats, pigs, or poultry shall be permitted upon any lot. After giving a lot owner written notice of complaint and reasonable opportunity to remedy the situation, the Board of Directors may order the removal of any pet which has been a nuisance or a danger.

Motor Bikes All Terrain Vehicles - No motor bikes, motorcycles, or all terrain vehicles shall be driven upon the common area, lots, or roads (unless properly licensed on roads) with the exception of licensed vehicles and mopeds which shall be operated solely upon the public streets for direct ingress and egress purposes only.

External Lighting - No external lighting shall be installed or utilized on any property which is of such character, intensity, or location as to interfere with the use, enjoyment, and privacy of any lot or owner in the near vicinity. No neon or flashing lights shall be permitted. All external lighting shall be approved by the Architectural Board as appropriate in size, location, color, and intensity.

Swimming Pools - No swimming pool, whether in ground or above ground, whether permanent or temporary, shall be installed upon any lot without the prior written consent of the Architectural Board. The Architectural Board shall require that all swimming pools be adequately screened.

Rules and Regulations - The Board of Directors is granted and shall have the power to promulgate rules and regulations, from time to time, governing the use of and activity upon the Common Area and the Recreational Facilities (if the Recreational Facilities are owned or leased by the Association). All rules and regulations promulgated by the Board of Directors shall be published and distributed to each member of the Association at least thirty (30) days prior to their effective date.
(P)

18. To the extent permitted by the Transportation Department and VDOT, in conjunction with the construction of the internal road work, one (1) traffic island/circle may be provided. The exact design and location of this traffic island/circle shall be approved by the Transportation Department. (T)
19. Prior to the recordation of more than 300 lots on this parcel and on the parcels the subject of Case No. 02SN0259, at a minimum, the following recreational facilities shall be provided and completed.
 - a. A twenty-five meter swimming pool
 - b. A 1,000 gross square foot accessory building for the pool
 - c. A 150 foot by 250 foot active recreation playfield.(P)
20. The developer shall leave in place temporary sediment control devices and/or construct new BMP's or combinations of BMP's which would achieve a maximum phosphorous runoff limit of 0.22 pounds per acre per year until Chesterfield County obtains its initial permit for the implementation of the Upper Swift Creek Watershed Plan. (EE)

Ayes: McHale, Barber, Humphrey and Miller.
Nays: Warren.

03SN0162

In Clover Hill Magisterial District, RON WHEELER requests rezoning and amendment of zoning district map from Corporate Office (O-2) to Multifamily Residential (R-MF) with Conditional Use Planned Development to permit exceptions to Ordinance requirements. Residential use of up to ten (10) units per acre is permitted in a Multifamily Residential (R-MF) District. The Comprehensive Plan suggests the property is appropriate for mixed use corridor use. This request lies on 8.4 acres fronting approximately 670 feet on the east line of Pocoshock Boulevard approximately 950 feet north of Hull Street Road. Tax IDs 762-695-6591; 762-696-6401 and 6412; and 763-696-Part of 0005 (Sheet 11).

Ms. Beverly Rogers presented a summary of Case 03SN0162 and stated staff recommended denial because the application fails to provide sufficient open space, buffers and sidewalks. She further stated the Planning Commission recommended approval subject to the condition and acceptance of the proffered conditions, indicating that the use does comply with the Route 360 Corridor Plan and, in their opinion, the proffered

conditions adequately address a quality design of the project.

Mr. Andy Scherzer, representing the applicant, stated the applicant has provided numerous proffered conditions to address residents' concerns, and the Surreywood neighborhood, Gateway Association and 360 East Corridor Committee support the proposal. He further stated the Planning Commission's recommendation is acceptable, and requested the Board's support of the proposed development.

Mr. Warren called for public comment.

Mr. Roy Jessee stated he does not support the proposed development and submitted a memorandum for the record stating his objections, including increased hazardous traffic conditions; inadequate cash proffers to remedy transportation issues; a problematic overall density; failure to incorporate high quality cluster design and site amenities; inadequate requirements for site lighting; and ongoing drainage problems affecting adjacent residential areas. He requested that the Board deny the proposed development.

There being no one else to speak to the request, the public hearing was closed.

Mr. Scherzer stated the applicant has no control over safety of the road, but does plan to address safety of the access. He further stated the applicant has proffered a condition to straighten out the curve on Pocoshock Boulevard, and reiterated that the Planning Commission unanimously recommended approval of the proposal.

When asked, Mr. Scherzer stated the proposed density is commensurate with that of other similar developments. He noted that the development will be limited to senior citizens 55 years of age and older.

Mrs. Humphrey inquired whether the road improvements will result in a loss of property for Mr. and Mrs. Jessee.

Mr. Scherzer stated he feels the developer has agreed to dedicate the ultimate right of way to straighten the curve on Pocoshock Boulevard.

Mr. McCracken stated the applicant is providing a significant amount of right of way, but he cannot guarantee that sufficient right of way is being provided to straighten the curve without acquiring additional property.

When asked, Mr. Scherzer stated the applicant has proffered a condition relative to the architectural treatment of the project. He further stated the developer has agreed to erect light poles at a maximum of 15 feet. He stated the county ordinance addresses lighting glare. He further stated the developer has adequately provided for drainage that will not affect the Jessees' property.

Discussion ensued relative to the county's ordinance regarding lighting standards.

Mr. Scherzer stated adjacent property owners will be notified regarding the site plan and can appeal any issues they may

have at that time. He further stated the applicant will make every effort to adjust the lighting to alleviate its impact upon the Jessees' home.

Mrs. Betty Jessee expressed concerns relative to reduced setbacks and stated she feels the proposed density is too high for the area.

Mr. William Gwathmey, property owner, stated all concerns have been addressed by the developer, and he feels the proposal is a perfect fit for the subject property.

Mr. Scherzer stated numerous community meetings were held and the neighborhoods support the proposal, indicating that he feels the development merits the Board's approval.

Mr. Warren stated he feels the proffered conditions address the majority of the issues raised.

Mr. Warren then made a motion, seconded by Mr. Miller, for the Board to approve Case 03SN0162 subject to one condition and acceptance of the proffered conditions.

Mr. Miller requested that Mr. Scherzer follow through with the Jessees regarding the lighting issue.

Mrs. Humphrey requested that staff provide a response to Mr. and Mrs. Jessee's concerns indicating at what point these issues will be addressed during the site plan process.

Mr. Warren called for a vote on his motion, seconded by Mr. Miller, for the Board to approve Case 03SN0162 subject to the following condition:

With the approval of this request, the Textual Statement revised September 18, 2003, is approved. (P)

And, further, the Board accepted the following proffered conditions:

1. Public water and wastewater shall be used. (U)
2. The applicant, subdivider, or assignee(s) shall pay the following, for infrastructure improvements within the service district for the property, to the county of Chesterfield prior to the issuance of building permit for infrastructure improvements within the service district for the property:
 - a. \$4,815.00 per dwelling unit, if paid prior to July 1, 2003. At the time of payment, the \$4,815.00 will be allocated pro-rata among the facility costs as follows: \$598.00 for parks and recreation, \$324.00 for library facilities, \$3,547.00 for roads, and \$346.00 for fire stations; or
 - b. The amount approved by the Board of Supervisors not to exceed \$4,815.00 per dwelling unit pro-rated as set forth above and adjusted upward by any increase in the Marshall and Swift building cost index between July 1, 2002, and July 1 of the fiscal year in which the payment is made if paid after June 30, 2003.

- c. In the event the cash payment is not used for which proffered within 15 years of receipt, the cash shall be returned in full to the payor. (B&M)
- 3. Except for timbering approved by the Virginia State Department of Forestry for the purpose of removing dead or diseased trees, there shall be no timbering on the Property until a land disturbance permit has been obtained from the Environmental Engineering Department and the approved devices installed. (EE)
- 4. Direct access from the property to Pocoshock Boulevard shall be limited to one (1) public road. The exact location of this access shall be approved by the Transportation Department. (T)
- 5. Prior to any site plan approval, thirty-five (35) feet of right-of-way on the east side of Pocoshock Boulevard, measured from a revised centerline based on VDOT Urban Collector standards (forty (40) miles per hour) as approved by the Transportation Department, shall be dedicated, free and unrestricted, to and for the benefit of Chesterfield County. (T)
- 6. To provide an adequate roadway system at the time of complete development, the owner/developer shall be responsible for the following:
 - a. Construction of additional pavement along Pocoshock Boulevard at the approved access to provide a right lane, if warranted, based on Transportation Department standards;
 - b. Relocation of the ditch to provide an adequate shoulder along the east side of Pocoshock Boulevard for the entire property frontage;
 - c. Dedication to Chesterfield County, free and unrestricted, any additional right-of-way (or easements) required for the improvements identified above. (T)
- 7. Prior to any construction plan approval, a phasing plan for the required road improvements, as identified in Proffered Condition 6, shall be submitted to and approved by the Transportation Department. (T)
- 8. All impervious areas shall drain to the southeastern and/or the southwestern portion(s) of the property. In addition, the drainage system shall be designed to capture runoff from the properties to the north, to the extent practical as determined by the Department of Environmental Engineering. If a retention pond or any water quality pond is provided above ground, such pond shall be designed as a wet pond. (EE)
- 9. Age restriction: Except as otherwise prohibited by the Virginia Fair Housing Law, the Federal Housing Law, and such other applicable federal, state, or local legal requirements, dwelling units shall be restricted to "housing for older persons" as defined in the Virginia Fair Housing Law and shall have no persons under 19

years of age domiciled therein ("Age-Restricted Dwelling Units"). (P)

10. Virginia Condominium Act: All dwelling units on the Property shall be condominiums as defined and regulated by the Virginia Condominium Act, and all common areas and improvements therein shall be maintained by a condominium association. (P)
11. Open space/recreation area shall be provided as generally depicted on the Master Plan, prepared by Balzer & Associates, Inc., including a minimum of 0.47 acres in an area adjacent to the clubhouse to provide a "focal point" to the project. Part of the area shall be "hardscaped" and have other amenities that accommodate and facilitate gatherings. The exact design and location shall be approved by the Planning Department at the time of site plan review. The clubhouse building and its related recreational amenities shall be developed concurrent with the first phase of development. (P)
12. Development of the property shall be in substantial conformance with the architectural appearance shown on the elevations attached hereto as Exhibit "A" with respect to the materials depicted, which are brick or stone veneer, composition, hardiplank or vinyl siding, and 20-year asphalt roof shingles. Development of the property shall generally conform to the Master Plan with respect to the general location of the clubhouse building, open spaces, the orientation of buildings such that the number of garage doors opening to any individual street are minimized, and the clustering of buildings. The location of roads, access, driveways and parking areas need not be exactly as shown on the Master Plan; however, the concepts of the Plan shall be generally adhered to such as the orientation of dwelling units to one another, to open spaces, and to rights of way. (P)
13. Restriction on Children's Play Facilities: The common area recreational amenities shall not include playground equipment, play fields or other facilities primarily associated with children's play. Adult facilities including, but not limited to, putting greens, shuffleboard, picnic and barbecue areas and gardens shall be permitted. No swimming pools, basketball courts or tennis courts will be permitted. (P)
14. Density: There shall be no more than forty-four (44) units developed on the Property. (P)
15. All roads that accommodate general traffic circulation through the development (the "Public Roads"), as determined by the Transportation Department, shall be designed and constructed to VDOT standards and taken into the State System. Setbacks from the Public Roads shall be as identified for special access streets pursuant to Section 19-505(b) of the Zoning Ordinance. Prior to any site plan approval, forty (40) foot wide rights of way for the Public Roads shall be dedicated, free and unrestricted, to and for the benefit of Chesterfield County. Prior to the issuance of an

occupancy permit unless otherwise approved by the Transportation Department, the Public Roads shall be constructed and approved for State acceptance, as determined by the Transportation Department. (T)

16. Sidewalks shall be provided along all interior streets generally as shown on the Master Plan. The treatment and location of these sidewalks and the pedestrian trail shall be approved by the Planning Department at the time of site plan review. (P)
17. Street trees in accordance with the requirements of the Zoning Ordinance shall be installed along each side of the interior roads and common driveways to include entrance roads from public roads into the development. If existing trees are maintained, they may be counted toward this requirement. (P)
18. Landscaping shall be provided around the perimeter of all buildings, between buildings and driveways, within medians, and within common areas not occupied by recreational facilities or other structures. Landscaping shall comply with the requirements of the Zoning Ordinance Sections 19-516 through 19-518(f). Within the setback along Pocoshock Boulevard, a landscape berm shall be installed in such a way as to minimize the view of the garage doors from Pocoshock Boulevard. Landscaping shall be designed to: minimize the predominance of building mass and paved areas; define private spaces; and enhance the residential character of the development. The Planning Department, at the time of site plan review, shall approve the landscaping plan with respect to the exact numbers, spacing, arrangement and species of plantings. Landscaping along Pocoshock Boulevard shall, at a minimum, comply with the requirements of Section 19-518(g)(4) of the Zoning Ordinance for Perimeter Landscaping C, Option I. Decorative fencing shall be installed as follows: 1) generally parallel to Pocoshock Boulevard within the front setback and 2) on the proposed property line adjacent to the existing office building parking lot. Landscaped areas and sodded lawns shall be irrigated. (P)
19. Light poles shall have a maximum height of fifteen (15) feet. (P)
20. A six (6) foot solid fence shall be installed generally adjacent to GPIN 763-696-8950. This fence shall be constructed of vinyl/PVC resin. The exact design and treatment shall be approved at the time of site plan review. (P)
21. Visitor parking to accommodate overflow parking for attached dwelling units shall be provided in the residential development and shall provide a minimum of six (6) parking spaces. The exact treatment and location of the visitor parking shall be addressed at the time of site plan review. (P)
22. No dwelling unit shall exceed a height of one story. (P)

23. Common areas which are not contained within units and public road right-of-ways shall conform to the requirements of 19-559 of the Zoning Ordinance provided however, that required information shall be submitted as a part of the site plan process. (P)
24. Restrictive Covenants. The following provisions shall be contained in restrictive covenants which shall be recorded. Further, the following provisions in the restrictive covenants shall not be modified or amended for a period of at least twenty (20) years following recordation:
- 1) No unit shall be used except for residential purposes.
 - 2) No accessory buildings shall be erected, placed, or permitted on the premise.
 - 3) No fences shall be erected on any portion of the property except in accordance with the approved site plans and specifications for construction, and is further controlled through the proffered conditions of the rezoning.
 - 4) No noxious or offensive activity shall be carried on upon by any resident, nor shall anything be done thereon which may be, or become, an annoyance or nuisance to the neighborhood.
 - 5) No structure of a temporary character, trailer, tent, shack, garage, or other outbuilding shall be used at any time as a residence either temporarily or permanently, and to this end, any building to be constructed in this development shall be completed within one year from the issue date of it's building permit.
 - 6) NO CAMPERS, HOUSE TRAILERS, OR BOATS SHALL BE PARKED on the premise. No skateboard platforms, large dish television antennae (exceeding two feet in diameter), or television or radio towers shall be placed on the premise. No dish television antennae shall be visible from the street for the respective residence.
 - 7) No sign of any kind shall be displayed to the public view on any yard except one professional sign of not more than three square feet and one sign of not more than five square feet advertising the property for sale, and one sign of not more than five square feet by a builder to advertise the property during the construction and sales period.
 - 8) No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any lot except that dogs, cats, or other household pets may be kept therein if they are not kept, bred, or maintained for any commercial purposes.
 - 9) No part of this development shall be used or maintained as a dumping ground for rubbish, trash, garbage, or other waste. No rubbish, trash,

garbage, and other waste shall be kept by any unit except in sanitary containers, and all equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition. No central dumpsters shall be provided.

- 10) Each and every covenant and condition herein imposed may be enforced by the undersigned or by the owner of any unit by appropriate proceedings at law or in equity against any party violating or attempting or threatening to violate the same to prevent or rectify such violation and to recover damages therefore.
- 11) The covenants and conditions herein contained shall run with the land and shall be binding upon the subsequent owner or owners of all or any unit and each and every portion of the land shown on the plat and all parties claiming through or under such owner or owners.
- 12) All dwelling units shall have washer and dryer hookups.
- 13) All residential dwelling units shall have an attached garage containing a minimum of 200 gross square feet.
- 14) A mandatory homeowners' association shall be created that shall be responsible for the maintenance of yards and exteriors of residential dwelling units.
- 15) Age restriction: Except as otherwise prohibited by the Virginia Fair Housing Law, the Federal Housing Law, and such other applicable federal, state, or local legal requirements, dwelling units shall be restricted to "housing for older persons" as defined in the Virginia Fair Housing Law and shall have no persons under 19 years of age domiciled therein ("Age-Restricted Dwelling Units"). (P)

Ayes: Warren, McHale, Barber, Humphrey and Miller.
Nays: None.

Mr. McHale made a motion, seconded by Mr. Warren, for the Board to suspend its rules to consider an item after 11:00 p.m.

Ayes: Warren, McHale, Barber, Humphrey and Miller.
Nays: None.

04SN0109

In Bermuda Magisterial District, PINEY BRANCH DEV CO requests rezoning and amendment of zoning district map from Agricultural (A) to Residential (R-12). Residential use of up to 3.63 units per acre is permitted in a Residential (R-12) District. The Comprehensive Plan suggests the property is appropriate for residential use of 1.0 to 2.5 units per acre. This request lies on 8.2 acres fronting approximately 355 feet on the south line of Carver Heights Drive,

approximately 165 feet west of Branders Bridge Road. Tax ID 781-650-Part of 8726 (Sheet 26).

Ms. Rogers presented a summary of Case 04SN0109 and stated the Planning Commission and staff recommend approval and acceptance of the proffered conditions.

Ms. Tamsen Watson, representing the applicant, stated the applicant has met with Mr. Cook who expressed concerns at the Planning Commission meeting and has agreed to work with him towards a solution to his drainage concerns. She further stated the recommendation is acceptable.

Mr. Warren called for public comment.

No one came forward to speak to the request.

On motion of Mr. McHale, seconded by Mr. Barber, the Board approved Case 04SN0109 and accepted the following proffered conditions:

1. The public water and wastewater system shall be used. (U)
2. The applicant, subdivider, or assignee(s) shall pay the following to the county of Chesterfield prior to the issuance of building permit for infrastructure improvements within the service district for the property:
 - a. \$9,000.00 per dwelling unit, if paid prior to July 1, 2003; or
 - b. The amount approved by the Board of Supervisors not to exceed \$9,000.00 per dwelling unit adjusted upward by any increase in the Marshall and Swift building cost index between July 1, 2002, and July 1 of the fiscal year in which the payment is made if paid after June 30, 2003.
 - c. In the event the cash payment is not used for which proffered within fifteen (15) years of receipt, the cash shall be returned in full to the payor. (B&M)
3. The maximum density of this development shall not exceed twenty (20) lots. (P)
4. Direct access from the property to Carver Heights Drive shall be limited to one (1) public road. The exact location of this access shall be approved by the Transportation Department. (T)
5. In conjunction with recordation of the initial subdivision plat, forty five (45) feet of right-of-way along the southern line of Carver Heights Drive, measured from the centerline of that part of Carver Heights Drive immediately adjacent to the property, shall be dedicated, free and unrestricted, to and for the benefit of Chesterfield County. (T)

Ayes: Warren, McHale, Barber, Humphrey and Miller.

Nays: None.

19. ADJOURNMENT

On motion of Mr. McHale, seconded by Mr. Barber, the Board adjourned at 11:22 p.m. until December 11, 2003 at 5:30 p.m.

Ayes: Warren, McHale, Barber, Humphrey and Miller.

Nays: None.

Lane B. Ramsey
County Administrator

Arthur S. Warren
Chairman